As I watched this worlds best chronicler of history I kept tossing about two questions. First, is all this a result of the Constitution or a result of a disregard for the Constitution? Secondly, did we accomplish all this?

I kept wondering about this as I was so forcibly reminded that this was the decade that had slain its prophets from Dallas to Memphis to Los Angeles. This was the past that had polluted land, sky and water all around us but which also had taken, "One small step for a man, one giant leap for mankind." Blessings and curses!

Yes, I convinced myself these things had been done; these things Americans had done. Yet a shadow crossed my mind as I recalled that we also killed a president—stumbled into a quicksand war in Vietnam—rioted in Watts and Detroit—and dabbled in nudity and mind blowing drugs. I kept returning to the horrible thought that when people, for whatever reason-oppression or complaceny or laziness take no part in their institutions, the institutions themselves decay at an accelerating rate. Are the principles set forth in our Constitution decaying because of gross indifference to American tradition in our present age.

Are Dante's words in his Divine Comedy applicable—or necessary for our survival when he said, "The hottest places in hell are reserved for those who in time of great moral crisis, maintain their neutrality."

Yes the soaring sixties had it's Apollo rocket, it's off-shore oil derrick, it's rock band drawing thousands regardless of the elements and words like, "I've been to the top of the mountain, and my eyes have seen the glory of the coming of the Lord!" The soaring sixties should give us hope and remind us as Alfred Lord Tennyson once said, "Each new day brought forth a fresh chance, and each chance brought forth a noble knight."

The past history of America has been one etched in blood, yet glorious in victory. It has seen the spirit of '76 carried through as we bravely took our place in the fight for freedom. But will the new emphasis on personal rights and the dedication to a new concept of personal freedom bring us broken dreams and lost hopes?

A noted clergyman has told us that, "The traumatic repetition of acts of violence to realize this new concept of personal freedom must end."

Ladies and gentlemen, I believe that our Constitution which means so much to our way of life must also be identified with our way of life. Our new goals should be justice, peace and human dignity for all men. We must have the realization of the inadequacies of imperfect yesterdays but still maintain hopes for a better tomorrow. In retrospect, let us listen to a man, a great political figure of the past who because of dedication to principle lost his political position and his head, Sir Thomas More, when he said, "Let us not abandon the ship in tempest, because we cannot control the winds." So to, let us not abandon our ship of state because it is constantly guided by a ray of hope, our Constitution.

My friends, the years immediately ahead will test our Constitution as seriously as any we have known in our history. For as the late President John Kennedy has told us,

"Now the trumpet summons us again,
Not as a call to bear arms though arms we need,
Not as a call to battle, though embattled we are
But a call to bear the burden of a long twilight struggle:
A struggle against the common enemies of man,
Tyranny, poverty, disease, and war itself."

Ladies and gentlemen, the present age is indeed a threat to our Constitution and the trumpet is summoning us again, to bear the burden in this long, twilight, struggle.

SENATE—*Friday, June 26, 1970*

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

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

O Thou creator and re-creator of life, when days grow long and wearisome and the hours are tense and contentious, come to us this morning hour as the restorer of the energies that are spent. Regenerate us by Thy holy spirit and fit us for this day. Keep our minds keen, our thinking straight, our judgments sound, our speech chaste, our wills resolute, and our demeanor magnanimous. When insight falters let obedience be firm. What we lack in faith and work may we repay in love.

To Thy care and direction we commend our spirits this day and forever. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 26, 1970.

To the Senate:

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

RICHARD B. RUSSELL,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, June 25, 1970, be dispensed with.

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

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the disposal of the stockpile bills, which will be taken up shortly, the distinguished Senator from Ohio (Mr. YOUNG) be recognized for not to exceed 20 minutes.

The ACTING PRESIDENT pro tempore. The Chair would inform the Senator from Montana that the order has already been entered.

Mr. MANSFIELD. I thank the Chair.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

AMBASSADORS

The bill clerk proceeded to read the nominations of ambassadors.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

AGENCY FOR INTERNATIONAL DEVELOPMENT

The bill clerk read the nomination of Maurice J. Williams, of West Virginia, to be Deputy Administrator of the Agency for International Development.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

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.

PROGRAM

Mr. MANSFIELD. Mr. President, while the distinguished acting minority leader is in the Chamber, I should like to state that in view of the extremely good progress the Senate made yesterday and the 15-hour session which it endured, it is hoped that the same kind of accommodation and cooperation will prevail today, so that we can adjourn at a reasonable hour this evening. At the same time, hopefully, all the amendments to the postal reform bill may be disposed of, except those dealing with the right-to-work issue.

On that basis, if things work out ac-

cordingly, the Senate will not be in session tomorrow, Saturday.

ORDER FOR ADJOURNMENT UNTIL 11 A. M. ON MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns today—with the hope just mentioned above—that it stand in adjournment until 11 a.m. on Monday next.

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

(Subsequently, this order was modified to provide for the Senate to adjourn until 9 a.m. on Monday.)

THE CALENDAR

Mr. MANSFIELD. Mr. President, with the permission of the distinguished Senator from Delaware (Mr. WILLIAMS), and awaiting the arrival of the distinguished Senator from Nevada (Mr. CANNON), I should like to call up the unobjected-to bills on the calendar.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar, beginning with No. 946, and that the remaining measures be considered in sequence.

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

MRS. WANDA MARTENS

The bill (S. 783) for the relief of Mrs. Wanda Martens was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Federal Employees' Compensation Act, as amended, Mrs. Wanda Martens of Havre, Montana, widow of Jesse Otha Martens, shall be deemed to be entitled to receive payments of benefits and compensation under such Act, from and after the date of the death of the said Jesse Otha Martens, in like manner as if the Secretary of Labor had found that the death of the said Jesse Otha Martens on July 9, 1960, resulted from an injury sustained by him while in the performance of his duties as an Immigrant Inspector, Immigration and Naturalization Service, Department of Justice.

SEC. 2. Any amounts payable by reason of the enactment of this Act with respect to any period prior to the date of such enactment (including funeral and burial expenses) shall be paid in a lump sum within sixty days after the date of enactment of this Act.

SEC. 3. The provisions of section 23 of the Federal Employees' Compensation Act, as amended, shall be applicable with respect to any claim for legal services or for any other services rendered in respect to any claim for benefits or compensation by the said Mrs. Wanda Martens covered by the preceding sections of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report, No. 91-943, explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to provide that in the administration of the Federal Employees' Compensation Act, as amended, Mrs. Wanda Martens, of Havre, Mont., widow of Jesse Otha Martens, shall be deemed to be entitled to receive payments of benefits and compensation under such act, from and after the death of the said Jesse Otha Martens, in like manner as if the Secretary of Labor had found that the death of the said Jesse Otha Martens on July 9, 1960, resulted from an injury sustained by him while in the performance of his duties as an immigrant inspector, Immigration and Naturalization Service, Department of Justice.

STATEMENT

The Department of Labor opposes the enactment of the bill.

The Department of Justice has advised the committee of the facts in the case as follows:

"The decedent, Jesse Otha Martens, suffered a fatal heart attack, after returning home from the performance of his duties as officer in charge of the Immigration and Naturalization Service office at St. Thomas, Virgin Islands. As indicated by the personnel records of the Service, Mrs. Martens filed a formal claim with the Bureau of Employees' Compensation, Department of Labor, which was considered and initially denied January 7, 1964. On appeal to the Employees' Compensation Appeals Board, this decision was affirmed October 8, 1964, on the ground that the fatal heart attack was not causally related to the employment. The purpose of the bill, therefore, is to overrule the administrative decision."

The Department of Labor in opposing the bill has said:

"One of the objectives of the Federal Employees' Compensation Act is to provide uniform and equal treatment of civil employees of the United States injured in the performance of their duty. There appears to be no justification for the preferential treatment afforded by S. 783 for the consequences of heart disease not causally related to employment. Accordingly, we oppose its enactment."

The position of the Department of Labor is set forth well in the opinion of the Employees' Compensation Appeals Board as follows:

"[Docket No. 64-272; Hearing June 25, 1964; Issued Oct. 8, 1964, U.S. Department of Labor, Employees' Compensation Appeals Board]

"IN THE MATTER OF WANDA MARTENS, CLAIMING AS WIDOW OF JESSE O. MARTENS, AND DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE, ST. THOMAS, V.I.

"Appearances: Robert W. Healy, Esq., for appellant; Morton I. Schwartzman, Esq., for the Director, Bureau of Employees' Compensation.

"Decision and order

"Before Theodore M. Schwartz, E. Gerald Lamboley, James A. Broderick.

"The issue on appeal is whether the employee's fatal heart attack of July 9, 1960 was causally related to his employment.

"The employee was hired as a patrol inspector by the employing establishment on August 1, 1940. Except for about 3 years of military service, he was assigned to Havre, Montana, from 1940 to 1956, and to Helena, Montana from 1956 to 1959. He was transferred to Calais, Maine, in November 1959 in a supervisory position. Because of the illness of the officer in charge at Calais, the employee was responsible for the duties of his own position and those of the officer in charge until June 1, 1960. He was conscientious, capable and a willing worker. During the 7 months he was assigned to Calais, the employee worked a considerable number of Sundays and holidays, in addition to his regular 40 hour work week. Also, he often arrived early at the office and stayed late without recording the overtime hours worked. The climate in Calais, Me., was similar to that in Montana. Weather Bureau reports show that during June 1960 in Woodland, Maine, which is considered representative of Calais, the average maximum temperature was 76.4 degrees and the average minimum temperature was 51.5 degrees.

"Beginning June 15, 1960, the employee was reassigned to Charlotte Amalie, St. Thomas, V.I., as officer in charge. He was responsible for the supervision of all activities on St. Thomas and St. Croix, V.I. There were eight employees under his supervision on St. Thomas and two on St. Croix. All of the employees were experienced except two recently assigned investigators on St. Thomas, who were formerly with the Border Patrol but who had to be trained in the work to be done in the Virgin Islands. Office hours were from 8:30 a.m. to 5:00 p.m., 5 days a week, however, because of a backlog of work and the employee's need to orient himself to the new work, he frequently remained at the office after the regular working hours.

"When the employee arrived on St. Thomas, the office was in the process of being remodeled, the patrol boat was not in operating condition, and the two houses which were provided as living quarters for the employee and the two new investigators had not been vacated by their predecessors, making it necessary for them and their families to live in hotels at considerable expense for about 10 days. Thereafter, the employee felt obligated to assist in finding living quarters for one of the investigators, as there was not room for the two investigators and their families in the one-bedroom house available to them. The office building was air conditioned, but the unit in the employee's office was not working properly. The living quarters were not air conditioned.

"On July 8, 1960, the employee was required to travel to San Juan, P.R., to receive oral information of a classified nature. After working his regular 8-hour day, he left Charlotte Amalie by airplane at 6:30 p.m. and arrived at Suan Juan at 6:54 p.m. He attended a conference, which ended at 8:30 p.m., had dinner with several of the conferees, and sat up until about midnight, talking with three other officers. After staying overnight in San Juan, he left for Christiansted, St. Croix, at 8:20 a.m., arriving at 9:07 a.m., to give oral instructions to his staff in Christiansted. He left Christiansted at 11:25 a.m. and arrived at Charlotte Amalie at 11:50 a.m. Weather Bureau records show that the temperature in San Juan, P.R., on July 8, 1960, was 88 degrees maximum and 74 degrees minimum. On July 9, 1960, in St. Thomas, V.I., there was a maximum of 89 degrees and a minimum of 79 degrees.

"After he reached home on July 9, the employee complained of exhaustion. He took a nap for about 3 hours, then went shopping for groceries, took another nap, had a light supper, and went back to bed. He got up to answer five telephone calls between 6:00 and 6:55 p.m. A few minutes later, appellant heard him gasping for breath; by the time she reached him, the employee had died. An autopsy showed an enlarged heart and advanced arteriosclerosis of the coronary arteries, with far advanced atheromatous plaques. The anterior descending branch of the left coronary artery contained a pinpoint lumen which was occluded, partly by subintimal hemorrhage and partly by a fresh thrombus. There was a small scar on the myocardium, probably representing an old infarct. The death certificate showed the

cause of death as 'thrombosis of anterior descending branch of left coronary artery due to sclerosis of coronary arteries.'

"Appellant contends that the employee's fatal heart attack was caused by overwork and by the extreme heat which he encountered in the Virgin Islands after working for 20 years along the Canadian border from stations in Montana and Maine.

"In support of her claim, appellant submitted reports from Dr. William S. Harper, a specialist in internal medicine, who treated the employee in October 1959 for a duodenal ulcer. He reported that a complete physical examination at that time, which included an electrocardiogram and a chest X-ray, did not disclose any signs of cardiac disease. After learning from appellant of the events preceding the employee's death and the autopsy findings, the doctor stated:

" 'While coronary heart disease is common to most men, and would certainly have to be considered a preexisting condition in this case, it has been generally held * * * that undue stress, either physical or mental, is often a precipitating factor in a subsequent myocardial infarction.'

"He expressed the opinion that the circumstances of the employee's death indicated that the heart attack was precipitated by chronic fatigue and exhaustion.

"A medical adviser for the Bureau of Employee's Compensation reviewed the case record and stated that the employee had extensive atherosclerotic cardiovascular disease, which is progressive and irreversible in nature. He indicated that there was no evidence of extraordinary activities, either physical or emotional, competent to aggravate the preexisting condition. The doctor stated that in 3 weeks the employee should have become acclimatized to the change in temperature. He pointed out that fatigue is a common complaint in progressive coronary disease. The doctor expressed the opinion that the death of the employee was due to the normal progression of his disease.

"The Bureau referred the case record, with a statement of accepted facts, to Dr. Reno R. Porter, a specialist in cardiovascular disease, for review, analysis and opinion as to causal relation between the working conditions and the fatal heart attack. The doctor concluded that there was no relation between the working conditions and the fatal attack. He described the progressive nature of arteriosclerotic heart disease pointing out that it is characterized by atheromatous changes in the coronary arteries which develop gradually over a period of many months and years, leading to progressive narrowing of the arterial lumen until the circulation in the involved coronary artery becomes insufficient to supply the heart muscle. He noted that the autopsy findings indicated extensive atheromatous changes in the coronary artery of long standing, existing for years prior to the employee's transfer from the Canadian border to the Virgin Islands, and that the condition, therefore, was not caused by conditions of the employment. The doctor stated that the precipitation of death by the occurrence of a hemorrhage and a thrombus in an already narrowed coronary artery can occur spontaneously as the natural progression of the preexisting disease, or can occur from aggravation of the underlying coronary artery disease by unusual or strenuous physical exertion or acute emotional disturbances. However, he stated that it has not been established that chronic anxiety and worry, long hours and exhaustion are factors which can cause or aggravate underlying coronary artery disease. The doctor discussed studies which have been made on the possible effects of climatic environmental factors on the cardiovascular system. He stated that extremes of temperature appear to be associated with an increased incidence of myocardial infarction; however, he pointed out that in such cases these factors are associated with unusual physical exertion and the infarction occurs immediately after the climatic change and not after a period of acclimatization. The doctor noted that in this case the fatal heart attack occurred more than 3 weeks after the change in climate, by which time there should have been adequate acclimatization, that there was no unusual physical exertion involved, and that the heat was not excessive. He expressed the opinion that there was no causal relation between the climatic environment and the fatal heart attack.

"Thereafter, appellant submitted a report from Dr. Donald C. Overy, a specialist in cardiovascular disease, who concurred in the description of the process of coronary artery disease given by Dr. Porter, but expressed the opinion that the environmental factors, including emotional strain, unpleasant living conditions, an unusually heavy workload and a sudden change in temperature and humidity, were sufficiently severe and adequately timed to be influential in the precipitation of the sudden coronary occlusion.

"To assist in resolving the conflict in medical opinion, the Bureau referred the case record, with an augmented statement of accepted facts, to Dr. George E. Burch, a specialist in cardiovascular disease who had conducted special studies relating to the effect of climatic conditions on heart disease. After a review of the case record, the doctor concluded that neither the overtime work nor the climate in the Virgin Islands was competent to precipitate the fatal heart attack or to aggravate the coronary disease in any way. He stated that it is generally accepted that acclimatization is completed within 2 weeks or less and that, in any case, the change in weather could not have produced within 3 weeks the enlarged heart, arteriosclerosis and fibrosis shown by the autopsy. The doctor stated that the record showed the employee to be conscientious and hard working, but that he found no evidence that the overtime work performed by the employee or the climate produced the arteriosclerosis or the ischemic heart disease or contributed in any way to the employee's death.

"In a case such as this, the resolution of the question of the relationship between the employee's death and the conditions of employment rests primarily within the realm of the medical expert. The Board finds that the weight of the medical evidence is represented by the opinions of Doctors Reno R. Porter and George E. Burch, which establish that the fatal heart attack on July 9, 1960, was not causally related to the employment.

"The compensation order of the Bureau of Employee's Compensation, dated January 7, 1964, is hereby affirmed.

"Dated Washington, D.C., October 8, 1964.

"THEODORE M. SCHWARTZ,
"Chairman.

"E. GERALD LAMBOLEY,
"Member.

"JAMES A. BRODERICK,
"Member."

It is the position of the sponsor of the legislation, the Honorable Mike Mansfield, that it is a well-established rule of law that where a compensation case decision is equally balanced on both sides the compensation will be awarded; that since there is no appellate review of the Employees' Compensation Board's decision, this rule has not been extended to provide protection for Federal employees; that it is within the proper jurisdiction of the Congress in its consideration of private relief legislation to rectify any inequities in the application of the law; and that in this case, the claimant has a just and substantial claim.

The committee believes that the bill is meritorious and recommends favorable consideration.

Attached hereto and made a part of this report are (1) a letter from the Department of Justice, dated April 5, 1967; (2) a letter from the Department of Labor, dated April 1, 1969; and (3) a letter from the Honorable Mike Mansfield, dated June 11, 1969.

KATHRYN TALBOT

The bill (S. 2661) for the relief of Kathryn Talbot was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Kathryn Talbot, of Chaumont, New York, is relieved of all liability for payment to the United States of the sum of $5,458.13, representing the amount of cash and stamps, in her custody as clerk-in-charge of the Chaumont Post Office, which were taken from such post office in a burglary occurring over the weekend of July 22–23, 1967, the taking of such cash and stamps having arisen out of conditions existing at the post office prior to the time the said Kathryn Talbot became responsible for the cash and stamps. In the audit and settlement of accounts relative to such sum, credit shall be given for the amount for which liability is relieved by this Act.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Kathryn Talbot the sum of any amount received or withheld from her on account of the loss referred to in the first section of this Act.

(b) No part of any amount appropriated by this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of this section is a misdemeanor punishable by a fine not to exceed $1,000.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–944), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to relieve the claimant of liability for payment to the United States of the sum of $5,458.13, the amount of cash and stamps lost in a burglary at the Chaumont, N.Y., Post Office.

STATEMENT

The Post Office Department has no objection to the enactment of the bill.

In its report the Post Office Department has set forth the facts of the case as follows:

The bill would relieve Mrs. Kathryn Talbot of liability for payment of the sum of $5,458.13 to the United States, representing the amount of cash and stamps taken from the Chaumont, N.Y. Post Office when that office was burglarized during the weekend of July 22–23, 1967.

An investigation disclosed that at the time of the burglary proper safeguarding precautions had not been taken to secure the subject funds and stock and that the door to the safe had not been fully locked as required by postal regulations (Postal Manual, sec. 442.221). Since the maximum available protection was not used to secure

the funds and stock of the post office, Mrs. Talbot, as clerk-in-charge was held accountable for the loss.

The case was submitted by the Department to the General Accounting Office with a recommendation that the claim for credit be allowed on the basis that the improper practices at the Chaumont Post Office that gave rise to the loss existed prior to the time Mrs. Talbot was designated clerk-in-charge. However, the General Accounting Office affirmed the Postal Data Center ruling disallowing the claim on the grounds of negligence.

Mrs. Talbot was clerk-in-charge of the post office incident to the disability retirement of the former postmaster. The accountability for the office was transferred to her as of the close of business June 26, 1967.

Clerk-in-Charge Talbot stated that on July 5, 1967, the combinations on the office safe were changed, that the only persons who knew the combination in addition to herself were two other clerks; that she never gave the clerks any instructions on the closing of the safe since both were employed at the post office prior to the time she assumed charge and she assumed that the former postmaster instructed them in this matter. Further, that when she is on duty she always closes the post office safe, and she therefore never witnessed the other clerks closing it.

The former postmaster was interviewed so as to ascertain if he was familiar with the letter of instruction to postmasters dated February 24, 1967, relating to the protection of funds, stock and registered mail. The former postmaster was unable to recall the specific letter. Further, he could not remember if he brought the letter to the attention of his employees.

It is our opinion that Mrs. Kathryn Talbot performed her duties conscientiously and to the best of her ability; that she was neither a participant nor an accessory in the burglary; and that the improper practices at the office giving rise to the loss existed before she was clerk-in-charge. Accordingly, the Department has no objection to the enactment of S. 2661.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the committee from the standpoint of the administration's program.

The committee believes that the bill, S. 2661, is meritorious and recommends it favorably.

ARLINE LOADER AND MAURICE LOADER

The Senate proceeded to consider the bill (S. 2514) for the relief of Arline Loader and Maurice Loader which had been reported from the Committee on the Judiciary, with an amendment on page 2, line 4, after the word "of," strike out "20 per centum" and insert "10 per centum"; 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 Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $20,000 to Arline Loader and Maurice Loader, of Yachats, Oregon, in full settlement of their claims against the United States based upon the deaths of their sons, Maurice G. Loader and Frederic M. Loader, on October 15, 1944, as the result of the explosion of thirty-seven-millimeter armor-piercing shell which United States military personnel negligently left at an abandoned firing range and which was found by such sons.

SEC. 2. No part of the amount appropriated in this Act in excess of 20 per centum *10 per centum* shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

The amendment was 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. 91–955), explaining the purposes of the measure.

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

PURPOSE OF THE AMENDMENT

The purpose of the amendment is to limit any lawyer's fee to 10 percent of the claim.

PURPOSE

The purpose of the bill, as amended, is to pay to Arline and Maurice Loader, of Yachats, Oreg., $20,000 for the death of their sons, Maurice G. Loader and Frederic M. Loader, on October 15, 1944, as the result of the explosion of a 37-millimeter, armor-piercing shell found by the children on a firing range.

STATEMENT

A similar bill for these claimants in the 90th Congress, H.R. 1971, was passed by the House of Representatives but no action was taken in the Senate. In its favorable report on the bill, the Committee on the Judiciary of the House of Representatives said:

"The bill, H.R. 2016, was the subject of a subcommittee hearing on May 5, 1966. The testimony at that hearing and material submitted to the committee in support of the claim indicates that on the afternoon of October 15, 1944, four children, Maurice G. Loader, Jr., age 14; Frederic M. Loader, 13, Eleanor Loader, age 5; and Clifford Harp, age 14, were playing in the Loader's garage located in Montara, Calif., a small coastal town approximately 20 miles south of San Francisco. The children were repairing a toy wagon and took from a tool box a 37-millimeter, armor-piercing shell which had apparently been found by a playmate of the oldest Loader child and brought into the Loader's garage unknown to the parents, Maurice and Arline Loader. The shell exploded, killing Maurice G. Loader, Jr., and Frederic M. and injuring the other two children. The information available to the committee indicates that the shell had been found on the Montara firing range, which had been used by the U.S. Army for anti-invasion maneuvers during World War II. The firing range, although encircled by a three-strand wire fence, was not adequately guarded notwithstanding that, previous to the tragedy, unexploded shells and grenades had been found on the range by children residing in Montara.

"As is noted in the Army Department report, a newspaper account of the tragedy outlines with considerable detail the facts of the explosion. That report also notes that the Army recognized the responsibility of the Government by paying $711 for funeral expenses relating to the two children killed in the blast.

"The Army has referred to the fact that the Congress has on a number of occasions passed bills granting similar compassionate relief to the parents of children killed or injured in similar accidents. Notwithstanding the outline of the facts in the Army report, that Department states that it did not have the information necessary to confirm or deny the facts of the case. The committee must disagree with this conclusion. The fact that the deaths resulted from an explosion of military ordnance is not controverted in any way. The records of the Army confirm that the Army recognized the claim to the extent then possible under the law by authorizing a payment of the funeral expenses for the dead children. In this connection, it is also clear that a release secured by the Army at that time was a prerequisite to payment of the only amount available and cannot now be taken as a reason for a denial of compassionate relief by legislative action. It cannot be denied that there has been a long delay in presenting and recognizing this claim but this does not lessen the loss to the parents. Under these circumstances and in the light of the fact that Congress has granted relief previously in similar cases, the committee recommends that the bill be considered favorably."

The committee believes that the bill is meritorious and recommends it favorably.

KIMBALL BROS. LUMBER CO.

The bill (H.R. 13740) for the relief of Kimball Bros. Lumber Co. was considered, ordered to 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. 91–953), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to pay the Kimball Bros. Lumber Co., of Dexter, Oreg., a partnership composed of Clyde K. Kimball, Clayton Kimball, Kendall V. Kimball, Edgar Dowdy, and Arthur Lindley $13,726.62 in full satisfaction of all claims of the partnership against the United States for the cost of road construction incurred by it under a timber sale contract numbered 18–997 with the Forest Service, Department of Agriculture. The road costs were to be offset against the price charged for the timber in accordance with the contract but were not so amortized because the contract was canceled after fire destroyed most of the timber before it was removed, but after the road had been constructed.

STATEMENT

In its favorable report, the Committee on the Judiciary of the House of Representatives said:

"The Agriculture Department in its report to the committee on the bill stated it would have no objection to its enactment if it were amended to provide for a payment of $13,726.62. The committee has recommended that the bill be amended to provide for the payment of that amount.

"The contract referred to in the bill was entered into between the Forest Service of the Department of Agriculture, and Kimball Bros. Lumber Co. on November 23, 1965.

"The contract involved in H.R. 13740 (No. 18–997, November 23, 1965) covered the sale of an estimated 2,450 M board feet of National Forest timber. The timber sale was awarded to Kimball Bros. Lumber Co. after it bid successfully against eight other bidders. During 1966 the company completed the access road into the sale area (0.95 mile). Timber felling began in 1967. By early August of that year an estimated 2,000 M board feet, on about 34 acres, had been fellec

and bucked. A small volume of timber in the form of logs had been removed from the sale area.

"On August 8, 1967, lightning set a fire in the felled and bucked timber. The fire was controlled essentially on the sale area boundary. Company crews assisted in the control actions although the company was not operating when the fire started. Because of the extended drought preceding the fire, it burned intensely. Most of the remainder of the standing timber was damaged to some extent. The felled and bucked timber was damaged severely. Forest Service estimates made shortly after the fire indicated that the volume of merchantable felled and bucked timber had been reduced 50 to 60 percent as a result of the fire. Much of the loss occurred in the outer high-quality portions of the logs.

"On September 22, 1967, Kimball Bros. Lumber Co. requested the Forest Service to cancel the sale or to reappraise the timber and establish new rates which reflected the loss in volume and value. Inasmuch as the timber sale contract did not provide for rate redetermination as a result of fire or other catastrophe, the Forest Service considered only the merits of cancellation. The burned timber was again examined and results of the preliminary examination were confirmed. Not only had there been a significant volume loss but also the volume destroyed included the clear, high-quality portions of the logs. In subsequent discussion the company officials stated that the logs were so badly damaged that they could not be used to produce the high-quality products in which the company specialized. Therefore to complete the sale they would be forced to sell the burned logs to other mills. However, other mills were unwilling to pay much for the logs. At the highest offer the company could obtain, they expected to lose about $60,000. On the other hand, if the sale were canceled, the company's loss would be about $25,000 which would consist of the unamortized cost of the road and the costs incurred to fell and buck the timber. The company apparently decided upon requesting cancellation as the lesser of two evils for in the discussions, local forest officers pointed out to the company officials, that if cancellation were approved, the Forest Service had no authority to reimburse the company for these losses. At no time during the discussion did company officials indicate that they intended to submit such a claim, and from the foregoing statement it is clear that this would have had no effect because of the rights of the parties as defined under that particular contract.

"In light of the fact that the value of the timber had been materially reduced as a result of the fire, the regional forester approved the Kimball Bros. request and canceled the sale contract on December 21, 1967.

"The burned timber and some adjacent green timber were combined in a new offering and sold on June 13, 1968. The road constructed by Kimball Bros. Lumber Co. is being used to remove the timber in the new sale and in the future will be used to remove adjacent timber. The committee feels that this subsequent use of the road shows that the Government has benefited from this particular road construction.

"In Forest Service timber sale contracts, including the contract executed by Kimball Bros. Lumber Co., the amount of road cost to be amortized is based on an estimate made prior to offering the sale and stated in the contract. Under certain circumstances the stated amount may be adjusted to reflect construction of alternate roads or other changed conditions, but may not be adjusted because the purchaser's cost is different from the estimate whether his cost was less or whether it was more. In the subject contract the estimated road cost was $15,010. Kimball Bros. constructed the road as planned. Thus $15,010 was the maximum amount which could have been amortized, regardless of the company's cost. At the time of the fire some amortization had been accomplished on volume which had been removed and paid for. This was as follows:

Species	Volume thousand board feet	Amortization rate per thousand	Amortization amount
Douglas-fir	154.05	$8.27	$1,273.99
Hemlock and others	2.89	3.25	9.39
Total	156.94		1,283.38

"Thus the maximum amount of amortization which the company could have received on remaining timber was:

"Total estimated road cost	$15,010.00
Less amortized to date of fire	1,283.38
Remaining to amortize	13,726.62

"For this reason the Department recommended that the amount to be paid to Kimball Bros. Lumber Co. should not exceed $13,726.62. This is the amount the company would have recaptured for the completed roadwork if the sale had proceeded to conclusion.

"The committee has concluded that the facts outlined above and in the comments of the Department of Agriculture provide a clear basis for legislative relief. The company contracted in good faith to construct the road in the belief that the cost of the construction would be offset against the amounts to be paid for the timber. Through no fault on its part fire destroyed the value of the timber to the degree that further performance under the contract would produce a serious loss. This was recognized by the Government which terminated the contract, but admittedly nothing could be done about the costs already incurred for the road. The Department has noted that a subsequent contractor was able to use the road in logging the burnedout timber. Further the road will be of continuing benefit to the Government in logging adjacent timber. Clearly it is unequitable to impose this loss on this company under these circumstances for the Government has benefited by the construction of the road. It is recommended that the bill, amended to conform to the recommendations of the Department of Agriculture, be favorably considered.

"The Committee is advised that an attorney has rendered services in connection with this matter, and therefore the bill carries the customary language limiting attorney's fees."

The committee believes that the bill is meritorious and recommends it favorably.

1ST SGT. ALBERT F. THOMPSON, U.S. ARMY (RETIRED)

The bill (S. 3994) for the relief of 1st Sgt. Albert F. Thompson, U.S. Army (retired) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That First Sergeant Albert F. Thompson, United States Army (Retired), of Columbia, South Carolina, is relieved of all liability for repayment to the United States of the sum of $1,064.20, representing the amount of overpayments of basic pay he received from the United States during the period from March 28, 1960, through November 13, 1968, as the result of administrative error in determining his years of service for pay purposes. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this Act.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said First Sergeant Albert F. Thompson, the sum of any amounts received or withheld from him on account of the overpayment referred to in the first section of this Act.

(b) No part of any amount appropriated under this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of this subsection is a misdemeanor punishable by a fine not to exceed $1,000.

KONRAD LUDWIG STAUDINGER

The bill (S. 737) for the relief of Konrad Ludwig Staudinger, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraph (9) of section 212(a) of the Immigration and Nationality Act, Konrad Ludwig Staudinger may be issued an immigrant visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of such Act. This Act shall apply only to grounds for exclusion under such paragraph known to the Secretary of State or the Attorney General prior to the date of enactment of this Act.

CURTIS NOLAN REED

The bill (S. 3212) for the relief of Curtis Nolan Reed was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Curtis Nolan Reed may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, and notwithstanding the provisions of section 204(C) of the said Act, a petition may be filed pursuant to section 204 of the Act in behalf of the said Curtis Nolan Reed by Mr. and Mrs. H. Nolan Reed, citizens of the United States: *Provided,* That no brothers or sisters of the said Curtis Nolan Reed shall thereafter, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–945), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the entry into the United States in an immediate

relative status of an alien child adopted by citizens of the United States, notwithstanding the fact that the adoptive parents have previously had the maximum number of petitions approved.

MARIA PIEROTTI LENCI

The bill (S. 3263) for the relief of Maria Pierotti Lenci was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Maria Pierotti Lenci, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in this case.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-946), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of an immediate relative to Maria Pierotti Lenci which is the status she would be entitled to were it not for the death of her husband, a citizen of the United States.

DR. AMADO G. CHANCO, JR.

The bill (S. 3461) for the relief of Dr. Amado G. Chanco, Jr., was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Amado G. Chanco, Junior, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of June 9, 1962.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-947), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

MING CHANG

The bill (S. 3675) for the relief of Ming Chang was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3675

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ming Chang may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Shurman Y. Chang, citizens of the United States, pursuant to section 204 of such Act. The brothers or sisters of the said Ming Chang shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-948), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status as an immediate relative of the alien child adopted by citizens of the United States.

ALFREDO CAPRARA

The bill (H.R. 1695) for the relief of Alfredo Caprara was considered, ordered to 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. 91-950), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who is mentally defective in behalf of the son of a U.S. citizen. The bill provides for the posting of a bond as assurance that the beneficiary will not become a public charge.

JOSEFINA POLICAR ABUTAN FULIAR

The bill (H.R. 2315) for the relief of Josefina Policar Abutan Fuliar was considered, ordered to 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. 91-951), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to qualify for first-preference status as the unmarried daughter of citizens of the United States.

ADMISSION TO THE UNITED STATES OF CERTAIN INHABITANTS OF THE BONIN ISLANDS

The bill (H.R. 4574) to provide for the admission to the United States of certain inhabitants of the Bonin Islands was considered, ordered to 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. 91-952), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the entry into the United States of not to exceed 205 inhabitants of the Bonin Islands and certain of their children within 2 years after enactment of this act. The bill further provides that such aliens may petition for naturalization upon completion of the residence and physical presence requirements of section 316(a) of the Immigration and Nationality Act.

STATEMENT

This proposed legislation was first introduced in the House of Representatives and Senate in the 90th Congress as a result of an executive communication. The proposal was embodied in the Senate bill, S. 3488, during the 90th Congress, which was passed by the Senate on June 12, 1968, but did not receive approval in the House of Representatives. The need for legislation results from the transfer of the administration of the Bonin Islands from the United States to Japan. On November 15, 1967, the President of the United States and the Prime Minister of Japan issued a joint statement agreeing to enter into immediate consultation regarding the restoration of the Bonin Islands to Japan. The United States had administered the affairs of the Bonin Islands under the terms of the September 8, 1951, Treaty of San Francisco.

The Bonin group of islands is composed of Muko Jima Retto, Chichi Jima Retto, and Haha Jima Retto. The residents of these islands, although Japanese nationals, trace their ancestry to Yankee sailors and have a real sense of identity with the United States. In 1944 all noncombatant inhabitants of the Bonin Islands were evacuated to Japan; however, in 1946 those persons of nonoriental origin were returned by the United States to the islands where they were placed under U.S. Navy administration. The Navy employed the islanders, subsidized their economy, and provided education in English. The economy of the Bonins was dependent upon the U.S. Navy for over two decades.

On June 26, 1968, the Bonin Islands reverted to the Japanese Government and the transfer of administration created difficult problems of adjustment for the residents. There is dispute over land ownership as well as a problem for the youth to adapt to the now-required Japanese language. A number of the islanders are presently serving in the U.S. Armed Forces, others are attending school in the United States and Guam. For these reasons, it is deemed appropriate to provide the islanders an opportunity to immigrate to the U.S. territory. This special legislation is necessary because the present numerical limitation, under the provisions of the Immigration and Nationality Act, will not provide a possibility of immigration in the near future.

Section 1 of the bill would exempt not to exceed 205 of the islanders, and certain of their children, from most of the restrictions, limitations, and requirements under the immigration laws with respect to admission to the United States if they are in possession of a valid identity certificate issued by the Military Governor of the Bonin Islands or by a U.S. consular officer in Japan. They would not be exempted from the classes of aliens who are subject to exclusion from admission because of criminal, immoral, narcotics, or subversive grounds, nor would they be exempted from the provisions which relate

to the deportation of aliens excludable at the time of entry or deportable on subversive grounds. They would also remain subject to travel controls imposed on aliens and citizens in time of war or national emergency.

Section 2 limits the application of the provisions of the bill generally to: (1) natives of the Bonin Islands or of Japan who are nationals of Japan and who resided in the islands on November 15, 1957, including an inhabitant temporarily absent from the islands on that date; and (2) any inhabitant of the Bonin Islands who was born to eligible parents after November 15, 1967, but before the expiration of 2 years after the enactment of the bill and who continued to reside in the islands.

Section 3 provides a means by which the islanders who immigrate to the United States may proceed to naturalization after a period of stay which would satisfy the residence and physical presence requirements of section 316(a) of the Immigration and Nationality Act. If the alien islander resides in the United States continuously for 5 years and has been physically present for 2½ years of that time and has been a resident in the State in which he intends to petition for naturalization for 6 months, he shall be deemed to have been lawfully admitted for permanent residence for naturalization purposes. The islander would then be in a position to petition for naturalization but would have to satisfy all the requirements applicable to any other petitioner.

AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT

The bill (H.R. 14118) to amend section 213 of the Immigration and Nationality Act, and for other purposes, was considered, ordered to 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. 91–954), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to strike from section 213 of the Immigration and Nationality Act the requirement that cash accepted by the Attorney General, under his discretionary authority to admit certain excludable aliens upon the giving of a bond or posting of cash, be deposited in the postal savings system. The postal savings system was abolished in 1966. The bill would provide that cash received as security on bonds be deposited in the Treasury with interest thereon payable at a rate not to exceed 3 percent per annum.

STATEMENT

Section 213 of the Immigration and Nationality Act presently provides that any alien excludable because he is likely to become a public charge or because of a physical disability other than tuberculosis in any form, leprosy, or a dangerous contagious disease may, if otherwise admissible, be admitted in the discretion of the Attorney General upon the giving of a suitable bond or undertaking. The Attorney General may set the bond in such amount and prescribe such conditions as he finds necessary to hold the United States and all States, territories, and local governmental units harmless against such alien becoming a public charge. Presently, when cash in lieu of bond is deposited, section 213 provides that such amount shall be deposited by him in the U.S. postal savings system with interest accruing on the deposit to be paid to the person furnishing such sum.

The U.S. postal savings system was discontinued effective April 27, 1966 (Public Law 89–377). It is therefore necessary to make some other statutory provision for the receipt, holding, and payment of interest upon cash received as security for immigration bonds. To accomplish this change H.R. 14118 provides for a redrafting of section 213 of the Immigration and Nationality Act with reference to the postal savings system omitted. Additionally, a new section, section 293, is incorporated in the act to provide for deposit of such bonds in the Treasury.

The bill also conforms the language of section 213 to section 11 of the act of September 26, 1961 (Public Law 87–301; U.S.C. 1182(a)(6)) by eliminating the specific reference to affliction with tuberculosis or leprosy since those afflictions are now embraced within the category of dangerous contagious diseases.

KIMOKO ANN DUKE

The Senate proceeded to consider the bill (S. 3167) for the relief of Kimoko Ann Duke, which had been reported from the Committee on the Judiciary with an amendment, strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Kimoko Ann Duke shall be held and considered to be within the purview of section 323(c) of such Act.

The amendment was 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. 91–956), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended is to enable the beneficiary to proceed to naturalization. The purpose of the amendment is to delete section 1 of the bill, inasmuch as it is unnecessary.

MRS. ANITA ORDILLAS

The Senate proceeded to consider the bill (S. 3265) for the relief of Mrs. Anita Ordillas, which had been reported from the Committee on the Judiciary with an amendment, strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Mrs. Anita Ordillas, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in this case.

The amendment was 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. 91–957), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of an immediate relative to Mrs. Anita Ordillas which is the status she would be entitled to were it not for the death of her husband, a citizen of the United States. The bill has been amended in accordance with established precedents.

DR. JORGE RAUL JOSE BRUNO MARTORELL Y FERNANDEZ

The Senate proceeded to consider the bill (S. 3364) for the relief of Dr. Jorge Raul Jose Bruno Martorell y Fernandez (Jorge R. Martorell) which had been reported from the Committee on the Judiciary with an amendment, on page 1, line 7, after the word "of", strike out "June 26, 1947, and the periods of time he has resided in the United States since that date shall be held and considered to meet the residence and physical presence requirements of section 316 of such Act." and insert "November 30, 1963"; 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, for the purposes of the Immigration and Nationality Act, Doctor Jorge Raul Jose Bruno Martorell y Fernandez (Jorge R. Martorell) shall be held and considered to have been lawfully admitted to the United States for permanent residence as of November 30, 1963.

The amendment was 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. 91–958), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to enable the beneficiary to file a petition for naturalization. The bill has been amended to reflect the proper date upon which he last entered the United States.

ORDER OF BUSINESS

Mr. MANSFIELD. That concludes the call for the calendar, Mr. President, and I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

DISPOSAL OF CERTAIN MINERALS AND MATERIALS FROM THE NATIONAL AND SUPPLEMENTAL STOCKPILES—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the following bills:

H.R. 12941, to authorize the release of

4,180,000 pounds of cadmium from the national stockpile and the supplemental stockpile;

H.R. 15021, to authorize the release of 40,200,000 pounds of cobalt from the national stockpile and the supplemental stockpile;

H.R. 15831, to authorize the disposal of bismuth from the national stockpile and the supplemental stockpile;

H.R. 15832, to authorize the disposal of castor oil from the national stockpile;

H.R. 15833, to authorize the disposal of acid grade fluorspar from the national stockpile and the supplemental stockpile;

H.R. 15835, to authorize the disposal of magnesium from the national stockpile;

H.R. 15836, to authorize the disposal of type A, chemical grade manganese ore from the national stockpile and the supplemental stockpile;

H.R. 15837, to authorize the disposal of type B, chemical grade manganese ore from the national stockpile and the supplemental stockpile;

H.R. 15838, to authorize the disposal of shellac from the national stockpile;

H.R. 15839, to authorize the disposal of tungsten from the national stockpile and the supplemental stockpile;

H.R. 15998, to authorize the disposal of Surinam-type metallurgical grade bauxite from the national stockpile and the supplemental stockpile;

H.R. 16289, to authorize the disposal of natural Ceylon amorphous lump graphite from the national stockpile and the supplemental stockpile;

H.R. 16290, to authorize the disposal of refractory grade chromite from the national stockpile and the supplemental stockpile;

H.R. 16291, to authorize the disposal of chrysotile asbestos from the national stockpile and the supplemental stockpile;

H.R. 16292, to authorize the disposal of corundum from the national stockpile;

H.R. 16295, to authorize the disposal of natural battery grade manganese ore from the national stockpile and the supplemental stockpile;

H.R. 16297, to authorize the disposal of molybdenum from the national stockpile.

Mr. President, these bills authorize the disposal of commodities from the national stockpile and the supplemental stockpile and for other purposes.

I ask unanimous consent for the immediate consideration of these reports en bloc.

(For conference reports, see House proceedings of June 16, 1970, CONGRESSIONAL RECORD.)

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the reports?

There being no objection, the Senate proceeded to consider the reports en bloc.

Mr. CANNON. Mr. President, I have a brief statement to make in regard to the action of the conference committee in regard to the 17 stockpile disposal bills before us. As we will recall, these bills were reported by the Committee on Armed Services last March 13 in the format proposed by the administration and specifically provided that the commodities covered by the legislation may be disposed of only after publicly advertising for bids unless the Administrator of the General Services Administration determines that methods of disposal other than by public advertising are necessary to protect the United States against avoidable losses, or to protect producers, processers, and consumers against avoidable disruption of their usual markets. The latter is in accordance with the basic Stockpile Act. We will further recall when these bills were considered on the floor of the Senate last April 2, the senior Senator from Delaware offered an amendment to each of them which limited the disposal of these commodities to a single method of disposal—namely, to the highest responsible bidder after publicly advertising for competitive bids.

The House conferees were adamant in their opposition to these amendments. They pointed out that during their committee consideration of these bills, representatives from the interested Government agencies and industry testified that disposal of commodities in this manner in every instance would be disruptive to the ordinary marketing of these materials because it could upset the stable price structure of these materials in the market and could cause a decline in the market price. They further stated it could upset distribution patterns and could cause a disruption to the market generally in some instances. More importantly, they pointed out that it would eliminate the flexibility needed by the General Services Administration in its method of sale and preclude them from complying with existing law.

The General Services Administration prefers and does use competitive bidding practices whenever possible, but there are situations when some flexibility is needed. Of the 17 bills before us, General Services Administration proposes to use competitive bidding in 11 instances. However, if this method should prove unsuccessful, they would be barred from using any other method should the amendment of the senior Senator from Delaware prevail.

In the President's budget message for fiscal year 1971, he called for the sale of some $750 million worth of excess stockpile materials. These are, in effect, frozen assets which he hope to convert to cash. The 17 bills which are the subject of the conference reports before the Senate today represent about $150 million of this amount. It is estimated that for each one million dollars' worth of stockpile materials sold, the Federal Government saves an annual charge of $70,800 in storage costs and interest on Government borrowing alone. Now, Mr. President, it became apparent in the conference committee that if the amendment of the senior Senator from Delaware prevailed, there would be no stockpile bills passed this year, the President's budget objective would not be achieved insofar as stockpile disposals are concerned, and the charges I have referred to, which amount to a substantial sum would continue.

Accordingly, the Senate conference had no alternative but to recede to the position of the House.

Mr. WILLIAMS of Delaware. Mr. President, I cannot understand why in a country which has been founded on the free enterprise system, there is so much lack of support for the competitive bidding system, a system that is used in private industry for the disposal of many of these products.

There can be but one excuse for it, as I see it, and that is that the Government now wants to pass these minerals back as bargains to the same people they bought them from.

In the first place, the minerals were first accumulated under the National Stockpile Act, which was supposed to authorize the purchasing and accumulating of these strategic minerals which in the event of war or national emergency would be needed for the security of our country.

Certain objectives were stated for the various minerals. But soon we achieved those objectives so that we had all the minerals in the stockpile which the Government stated could possibly be needed in the event of a full-scale 5-year war. The stockpiling objectives were achieved very early.

Then those selling those minerals realized that there was a low market price for minerals and not quite as much demand, and they wanted Government purchases continued. The Government was then persuaded to continue to purchase these minerals which, in effect, turned the stockpile program into a price support program for the various products.

To make this program even more costly the support prices were ofttimes far in excess of the prevailing market prices and far in excess of the world market prices at which these minerals could have been purchased.

During that time when we were accumulating those minerals I was a Member of the Senate. I argued on the floor of the Senate many times that if the Government was going to continue to buy these minerals, which I did not think was wise, they should at least buy them at the prevailing market price, the lowest price for which the Government could buy them, just as any industry would do.

But there was no reason why they should be paying for tungsten about two and one-half times the price that tungsten was selling for in the domestic market on the same day.

All of these minerals continued to be purchased by the Government at prices substantially higher than the prevailing price on the market.

It was a bonanza type program for the producers of these metals. As a result we have accumulated over $6 billion worth of so-called strategic minerals in the stockpiling program. In addition, the Government has in inventory $1.5 in agricultural products. But most of the inventory consists of minerals.

These range all the way from castor oil

to tungsten and aluminum. For instance, we have several million pounds of castor oil that we have no use for.

We have $286 million worth of rubber, $213 million worth of silver, and over $600 million worth of tin.

We have more than half a billion dollars tied up in tungsten. There was never any excuse for our purchasing these large quantities, and when we purchased this tungsten we paid about two to three times what the material was selling for at the prevailing price on the market.

We found many instances where the domestic producers were importing tungsten. They were importing it at the low world price and then putting it in the mines and selling it to the Government at two or three times the imported price, selling it as if it were domestic production. I think this is a national scandal.

Now as a result of the war and inflation throughout the world the prices of these minerals have increased to the point where the Government, in some instances, could actually get a profit in selling some of these minerals. Apparently the thought of a profit accruing to the Government on these minerals was so shocking in some quarters that they figured they could not stand it and that the Government had no right to make money on these minerals.

So what is the plan? Instead of selling it under a competitive bid system, where they could make a profit, they want to sell at a negotiated bid, at prices far below today's market price.

Mr. President, I cite as one example the plan to sell platinum some years ago. I was able to stop that movement. The Government was planning to sell about $200 million worth of platinum in the private market. They objected to my amendment to require competitive bids, but we were able to prevail at that time. However, it developed, and we established, that at the time the bill was being considered they had plans with private industry as to what the Government was going to get on negotiated prices. Private industry would divide up a $100 million windfall. Company A, company B, and company C were to get a certain percentage. The benefits in that case were about $100 million below the market, and under a developed plan this was going to be divided among certain groups in industry. As I have said, we were able to stop that plan.

Today I realize we have before us 12 or 13 bills with the same principle involved in each of them. I realize they are going to try to stampede these through, but I see no reason why we should not reject these conference reports and insist upon the Senate amendments, which would have required selling to the highest responsible bidder. I am ready to vote.

Mr. President, I ask for a division, that we stand by the Senate position and reject the conference report.

The ACTING PRESIDENT pro tempore. Is the Senator requesting a division?

Mr. WILLIAMS of Delaware. A division on the question.

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

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

The bill clerk called the roll, and the following Senators answered to their names:

[No. 179 Leg.]

Allen	Eagleton	McGee
Allott	Ellender	McIntyre
Anderson	Fannin	Metcalf
Bellmon	Fong	Muskie
Bible	Hatfield	Proxmire
Boggs	Holland	Schweiker
Byrd, Va.	Jackson	Scott
Byrd, W. Va.	Javits	Smith, Maine
Cannon	Jordan, N.C.	Thurmond
Case	Jordan, Idaho	Williams, Del.
Church	Mansfield	Young, N. Dak.
Dominick	McClellan	Young, Ohio

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. YARBOROUGH) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. PEARSON), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Ohio (Mr. SAXBE), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Maryland (Mr. MATHIAS), and the Senator from Vermont (Mr. PROUTY) are detained on official business.

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. BYRD of West Virginia. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken	Gravel	Mondale
Baker	Griffin	Moss
Bennett	Gurney	Nelson
Brooke	Hansen	Packwood
Cook	Harris	Pastore
Cooper	Hart	Pell
Cotton	Hartke	Percy
Cranston	Hollings	Randolph
Curtis	Kennedy	Spong
Dole	Long	Stevens
Eastland	Magnuson	Symington
Ervin	McGovern	Talmadge
Fulbright	Miller	Tydings

The PRESIDING OFFICER (Mr. BYRD of Virginia). A quorum is present.

Mr. CANNON. Mr. President, the order has already been entered that these items be considered en bloc. I ask unanimous consent to separate H.R. 15839, the bill for the disposal of certain tungsten from the stockpile, that the Senate consider it separately, and that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. Without objection, the clerk will report.

The ASSISTANT LEGISLATIVE CLERK. A report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill, H.R. 15839, to authorize the disposal of tungsten from the national stockpile and the supplemental stockpile.

Mr. CANNON and Mr. WILLIAMS of Delaware asked for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAMS of Delaware. Mr. President, we will call the roll in a few minutes. We discussed this issue of competitive bidding very clearly at the time the bills passed the Senate. It was discussed by the Senator from Nevada and me earlier today.

The one issue involved here is not the question of whether the Government should dispose of these surplus products, which I think it should do, but I point out that we have $8½ billion tied up in surplus products. These products were purchased by the Government in excess of national defense needs. At the time of the purchases this program operated somewhat as a support program for minerals. In purchasing them the Government paid not only the prevailing market price but oftentimes far above the prevailing market price.

For example, on tungsten, the Government paid an average of over double the market price at the time it was accumulating this mineral. I protested that strenuously at the time we were accumulating tungsten and said it was a support program for the mining industry.

All that is behind us now. The Government should get rid of the surplus stocks, but it should try to get the best price possible and thereby protect the taxpayers interests.

Certainly the Government, which is operating at a deficit averaging around one billion dollars per month, needs the money. The mining industry was subsidized once when these minerals were purchased. Why should it receive another subsidy as they are being sold?

As a result of inflation and war conditions throughout the world the price of minerals has advanced to the point where the Government by competitive bids can sell this at the market price and get its money back, or even make a little money. There is nothing wrong with the Government's making a profit.

I merely propose that in disposing of these products, the Government must exercise the same protection for the taxpayers as if individuals owned it themselves. The Government can, by advertising and by competitive bids, sell the material to the highest responsible bidder. The Government retains its right

to reject all bids. If there are no bids then the Government would have the right to negotiate the bid to its best advantage. But if there were competitive bids and they were acceptable, the Government would sell to the highest responsible competitive bidder. That is the issue involved.

Mr. President, I am perfectly willing to have a vote on this question.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. JAVITS. Mr. President, when the Senator says that they would accept all bids, he means that if they had two, three, or four bids, all of which they considered to be inadequate, they could throw them all out.

Mr. WILLIAMS of Delaware. The Senator is correct.

Mr. JAVITS. Mr. President, once they have tried the bid route and have found it to be unsuccessful, could they then go through a negotiated sale? A yardstick has been established obviously. They would have to get more money than the highest offer on the bid.

Mr. WILLIAMS of Delaware. They could do either. They could ask for new bids or negotiate, but in negotiating, the price would have to be higher than the highest bid they rejected.

Mr. JAVITS. Mr. President, is it fair to say, in other words, that they retain flexibility in relationship to the sales procedure except for the intermediate step of requiring bidding in the first instance?

Mr. WILLIAMS of Delaware. The Senator is correct.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. CANNON. That is, I think, an incorrect representation. Under the amendment of the Senator from Delaware, it could not be sold to people through negotiation. It would still have to be resold under a sealed bid procedure.

It is very clear as to what the amendment provides. I think that the Senate should properly understand the amendment. It provides only for sealed bid procedures and allows no other method to be followed.

Mr. WILLIAMS of Delaware. I think I do understand it, and both industry and the administration understand it. I have had this same amendment considered many times before. It was discussed with the administration, and at the time it was passed this was stated very clearly as the intent. The amendment was drafted as intended. Certainly we cannot make the people bid. Conceivably there would be but one bid, and if they did not want to accept it they could then negotiate with that bidder for a higher price.

My amendment as first approved by the Senate would merely carry out simple business practices on the part of the Government, the same way as anyone else would.

Mr. President, I am willing to vote.

Mr. CANNON. Mr. President, if we want stockpile disposals, the conference report should be accepted, because it is quite clear that if the amendment of the Senator from Delaware is agreed to there will be no stockpile disposals this year.

The House made that abundantly clear. The administration supports the bills as they are in the conference report, because they have stated, and the committee found, that it does not give them the needed flexibility to follow an orderly disposal program.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BYRD of Virginia). The Senator will state it.

Mr. CANNON. Mr. President, is a yea vote a vote to sustain the conference report?

The PRESIDING OFFICER (Mr. BYRD of Virginia). The Senator is correct.

Mr. WILLIAMS of Delaware. Mr. President, I am asking that the conference report be rejected and that there be a negative vote. The conferees could then be instructed to go back to conference and insist on the Senate amendment, which would require competitive bids.

The PRESIDING OFFICER (Mr. BYRD of Virginia). The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. JORDAN of Idaho (after having voted in the negative). On this vote I have a pair with the Senator from Nebraska (Mr. HRUSKA). If he were present and voting, he would vote "yea." I have already voted "nay." I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. YARBOROUGH) are absent on official business.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. PEARSON), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Ohio (Mr. SAXBE), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Vermont (Mr. PROUTY) and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The pair of the Senator from Nebraska (Mr. HRUSKA) has been previously announced.

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from Illinois would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 53, nays 21, as follows:

[No. 180 Leg.]

YEAS—53

Allott	Fannin	McIntyre
Anderson	Fong	Metcalf
Bellmon	Gravel	Moss
Bennett	Harris	Muskie
Bible	Hart	Packwood
Brooke	Hartke	Pastore
Byrd, W. Va.	Hatfield	Pell
Cannon	Holland	Percy
Church	Hollings	Randolph
Cook	Jackson	Schweiker
Cranston	Jordan, N.C.	Scott
Curtis	Kennedy	Smith, Maine
Dole	Long	Stevens
Dominick	Magnuson	Symington
Eagleton	Mansfield	Talmadge
Eastland	McClellan	Young, N. Dak.
Ellender	McGee	Young, Ohio
Ervin	McGovern	

NAYS—21

Aiken	Cotton	Mondale
Allen	Fulbright	Nelson
Baker	Griffin	Proxmire
Boggs	Gurney	Spong
Byrd, Va.	Hansen	Thurmond
Case	Javits	Tydings
Cooper	Miller	Williams, Del.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Jordan of Idaho, against.

NOT VOTING—25

Bayh	Mathias	Saxbe
Burdick	McCarthy	Smith, Ill.
Dodd	Montoya	Sparkman
Goldwater	Mundt	Stennis
Goodell	Murphy	Tower
Gore	Pearson	Williams, N.J.
Hruska	Prouty	Yarborough
Hughes	Ribicoff	
Inouye	Russell	

So the conference report on H.R. 15839 was agreed to.

Mr. CANNON. Mr. President, there is an order for consideration en bloc of the remaining 16 stockpile conference reports. The issue is exactly the same. I think the pattern is the same. I am not going to request a rollcall vote, but I am ready to vote.

Mr. WILLIAMS of Delaware. Mr. President, I agree with the Senator from Nevada that the Senate has made its decision. I am not going to ask for a rollcall vote. I am willing to abide by the decision of the Senate although I regret very much that we have made this decision. We have about $6.5 billion invested in so-called strategic minerals, many of them in excess of our stockpile needs. It has been conservatively estimated that we could get at least 10 to 15 percent more from those minerals if we sold them from the stockpile, and certainly the Government could use the $600 million to $1 billion extra from those sales.

Mr. Paul Douglas, former Senator from Illinois, made a study once of what would

be saved by the Government if the competitive bidding principle could be established for the Defense Department in its procurement policies. As a result of the study which he and I asked for it was ascertained that the Government could save at least $3 billion annually in buying its defense procurement through a competitive bidding system. Yet, repeatedly we have been unable to get the competitive bidding system established by the Congress, either in procurement or in sales programs. Negotiated bids are insisted upon.

I regret that the Senate today has again made this decision. While I respect its decision and will abide by it, I think the taxpayers should have been protected just a little better. I regret that was not done, but I am willing to proceed to a vote and accept the decision of the Senate on the remaining conference reports en bloc.

The PRESIDING OFFICER. The question is on agreeing to the remaining conference reports en bloc.

The reports were agreed to en bloc.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Acting President pro tempore (Mr. ALLEN):

H.R. 3908. An act for the relief of Elizabeth B. Borgnino;

H.R. 8512. An act to suspend for a temporary period the import duty on L-Dopa; and

H.J. Res. 1259. Joint resolution to extend the effectiveness of the Defense Production Act of 1950 to July 30, 1970.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED AMENDMENT TO THE BUDGET, 1971, FOR THE INTER-AMERICAN SOCIAL DEVELOPMENT INSTITUTE (S. Doc. No. 91-93)

A communication from the President of the United States, transmitting an amendment to the requests for appropriations transmitted in the budget for the fiscal year 1971, involving the Inter-American Social Development Institute (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

REPORT ON AMERICAN INDIAN TRIBAL CLAIMS

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, on the final conclusion of judicial proceedings regarding the Miami Tribe of Oklahoma (with an accompanying paper); to the Committee on Appropriations.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the costs of operating the nuclear merchant ship *Savannah*, Maritime Administration, Department of Commerce, dated June 26, 1970 (with an accompanying report); to the Committee on Government Operations.

SUSPENSION OF DEPORTATION OF ALIENS—WITHDRAWAL OF NAME

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, withdrawing the name of Reyes Rodriguez-Rodriguez from a report relating to aliens whose deportation has been suspended, transmitted to the Senate on July 1, 1969 (with an accompanying paper); to the Committee on the Judiciary.

PROSPECTUS FOR PROPOSED CONSTRUCTION

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which revises the post office and vehicle maintenance facility project authorized at Van Nuys, Calif. (with an accompanying paper); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A resolution adopted by the Legislature of Erie County, N.Y., praying for the enactment of legislation to appropriate funds for cancer research and treatment; to the Committee on Appropriations.

A resolution adopted by the Common Council of the City of Lockport, N.Y., praying for the enactment of legislation to appropriate funds for cancer research and treatment; to the Committee on Appropriations.

A resolution adopted by the Naha City Assembly, Naha, Okinawa, praying for the immediate and complete removal of poison gas weapons; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

H.R. 914. An act for the relief of Hood River County, Oregon (Rept. No. 91-977);

H.R. 2047. An act for the relief of Roseanne Jones (Rept. No. 91-978); and

H.R. 5000. An act for the relief of Pedro Irizarry Guido (Rept. No. 91-979).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 703. A bill for the relief of Arthur Jerome Olinger, a minor, by his next friend, his father, George Henry Olinger, and George Henry Olinger, individually (Rept. No. 91-980); and

S. 1785. A bill for the relief of Irene Sadowska Sullivan (Rept. No. 91-981).

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

H.R. 17802. An act to increase the public debt limit set forth in section 21 of the Second Liberty Bond Act (Rept. No. 91-982).

By Mr. RANDOLPH, from the Committee on Public Works, without amendment:

H.R. 15712. An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for titles I through IV through fiscal year 1971 (Rept. No. 91-984).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

H.R. 16595. An act to authorize appropriations for activities of the National Science Foundation, and for other purposes (Rept. No. 91-983).

By Mr. BIBLE, from the Committee on Appropriations, with amendments:

H.R. 17619. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1971, and for other purposes (Rept. No. 91-985).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. EASTLAND, from the Committee on the Judiciary:

William E. Miller, of Tennessee, to be a U.S. circuit judge, sixth circuit (Executive Rept. No. 91-21).

Mr. MAGNUSON. Mr. President, as in executive session, I report favorably sundry nominations in the Environmental Science Services Administration which have previously appeared in the CONGRESSIONAL RECORD and I ask unanimous consent, to save the expense of printing them on the Executive Calendar, that they lie on the Secretary's desk for the information of any Senator.

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

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

Kenneth A. MacDonald, and sundry other persons, for permanent appointment in the Environmental Science Services Administration.

BILLS INTRODUCED

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

By Mr. YOUNG of North Dakota:

S. 4030. A bill for the relief of certain individuals and organizations; to the Committee on the Judiciary.

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

S. 4031. A bill to establish a national catastrophic illness insurance program under which the Federal Government, acting in cooperation with State insurance authorities and the private insurance industry, will reinsure and otherwise encourage the issuance of private health insurance policies which make adequate health protection available to all Americans at a reasonable cost; to the Committee on Labor and Public Welfare.

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

By Mr. HARRIS:

S. 4032. A bill to establish a National Advisory Commission on American Indian Education; to the Committee on Interior and Insular Affairs.

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

S. 4031—INTRODUCTION OF THE NATIONAL CATASTROPHIC ILLNESS PROTECTION ACT OF 1970

Mr. BOGGS. Mr. President, I have the honor to introduce, with the cosponsor-

ship of the distinguished Senator from Maine (Mr. MUSKIE), a bill that will relieve a measure of the burden that befalls a family when catastrophic illness strikes.

This legislation does not prevent such tragedies. It cannot relieve the pain for a child stricken with an incurable disease, or resuscitate a family's spirit when the father or mother lies dying of cancer.

But by seeking to ease the financial problems for such families, this legislation will ease their burden. And by enabling every American family to obtain insurance coverage for such extended illnesses, this proposal would guarantee the best possible medical attention for the afflicted.

In the words of the bill, its purpose is—

To establish a national catastrophic illness insurance program under which the Federal Government, with the cooperation of the States and their insurance authorities and with the active participation of the private insurance industry, will encourage the issuance of private policies which offer adequate health insurance protection on such terms and conditions as will guarantee that such protection is available to all Americans, including those who cannot afford it under existing programs and policies, and will reinsure such policies on terms and conditions calculated to provide the maximum encouragement to insurance companies to participate in the program either individually or through insurance pools established for the purpose.

Specifically, this legislation would encourage the insurance industry to offer policies that would provide coverage for catastrophic illnesses. This legislation would foster the creation of insurance pools, supported with Federal reinsurance; such insurance pools should make certain that every American father can, at relatively modest cost, protect himself and his family against the costs of a catastrophic illness.

This legislation, the National Catastrophic Illness Protection Act of 1970, was introduced earlier this month as H.R. 18008 in the House of Representatives by the distinguished gentleman from Maryland, Mr. HOGAN. It has since been cosponsored by a number of his colleagues. Congressman HOGAN's description and analysis of the proposal is a most valuable one. Therefore, Mr. President, I ask unanimous consent that Congressman HOGAN's remarks, as well as the text of the bill, be included at this point in the RECORD, together with a section-by-section analysis of the bill.

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

The bill (S. 4031) to establish a national catastrophic illness insurance program under which the Federal Government, acting in cooperation with State insurance authorities and the private insurance industry, will reinsure and otherwise encourage the issuance of private health insurance policies which make adequate health protection available to all Americans at a reasonable cost; introduced by Mr. BOGGS (for himself and Mr. MUSKIE), 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. 4031

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

TITLE I—GENERAL PROVISIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "National Catastrophic Illness Protection Act of 1970."

FINDINGS AND PURPOSE

SEC. 102. (a) The Congress finds and declares that, despite the great advances in health insurance programs which have been made within both the public and private sectors of the economy, many individuals are still unable to secure adequate health insurance protection or to secure such protection at rates which they can afford. The Congress further finds that few of our citizens are protected from catastrophic illness and that provisions are generally lacking which would allow for such protection in the future.

(b) It is therefore the policy of the Congress and the purpose of this Act to establish a national catastrophic illness insurance program under which the Federal Government, with the cooperation of the States and their insurance authorities and with the active participation of the private insurance industry, will encourage the issuance of private policies which offer adequate health insurance protection on such terms and conditions as will guarantee that such protection is available to all Americans, including those who cannot afford it under existing programs, and policies, and will reinsure such policies on terms and conditions calculated to provide the maximum encouragement to insurance companies to participate in the program either individually or through insurance pools established for the purpose.

DEFINITIONS

SEC. 103. When used in this Act (unless the context otherwise requires)—

(1) the term "extended health insurance" means insurance against all costs paid or incurred for medical care (as defined in section 213(e) of the Internal Revenue Code of 1954 and the regulations issued thereunder);

(2) the term "costs of medical care" includes, with respect to any individual, all of the expenses of medical care (as so defined), incurred by or on behalf of persons covered by such individual's extended health insurance policy, which are deductible by such individual under section 213 of the Internal Revenue Code of 1954 (or would be deductible by such individual under section 213 of such Code but for the percentage limitations contained in such section) for the taxable year in which such expenses are paid or incurred;

(3) the term "insurer" includes any insurance company, or group of insurance companies under common ownership, which is authorized to engage in the insurance business under the laws of any State;

(4) the term "pool" means any pool or association of insurance companies in any State which is formed, associated, or otherwise utilized for the purpose of making extended health insurance more readily available;

(5) the term "person" includes any individual or group of individuals, corporation, partnership, association, or other organized group of persons;

(6) the term "reinsured losses" means losses on reinsurance claims under this Act and all direct expenses incurred in connection therewith, including, but not limited to, expenses for processing, verifying, and paying such losses;

(7) the term "Secretary" means the Secretary of Health, Education, and Welfare;

(8) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa; and

(9) the term "year" means a calendar year, fiscal year of a company, or other period of twelve months designated by the Secretary.

TITLE II—ESTABLISHMENT OF PROGRAM; STATE PLANS

PROGRAM AUTHORIZATION

SEC. 201. The Secretary is authorized to establish and carry out a national catastrophic illness insurance program as provided for in this Act.

STATE CATASTROPHIC ILLNESS INSURANCE PLANS

SEC. 202. (a) The national catastrophic illness insurance program shall be designed to carry out the purpose of this Act through the establishment of statewide plans providing extended health insurance and the reinsurance by the Federal Government of the insurers and pools of insurers who offer extended health insurance under such plans.

(b) Each insurer which is reinsured under this Act (or which is a member of a pool reinsured under this Act) shall cooperate with the State insurance authority in each State in which it is to acquire such reinsurance in establishing and carrying out the plan of such State described in subsection (a).

(c) Each statewide plan described in subsection (a) must be approved by, and administered under the supervision of, the State insurance authority, or be authorized or required by State laws, and shall be designed to make extended health insurance more readily available to all individuals in the State and particularly to those who would be unable to secure adequate and complete health insurance protection at reasonable rates without coverage by extended health insurance policies meeting the requirements of this Act which are issued and made available under such plan. Such plans may vary in detail from State to State because of local conditions, but all plans shall contain provisions that—

(1) extended health insurance issued by insurers under the plan will be available to all eligible individuals (as defined in section 203) at reasonable premiums (as determined under section 204), subject only to a deductible or deductibles meeting the requirements of section 205;

(2) if any insurer declines to write a policy of extended health insurance covering one or more eligible individuals making application therefor in accordance with this Act, or agrees to write the policy only at surcharged rates or subject to specified conditions, such insurer will promptly notify both the applicant and the State insurance authority, which shall take such action as may be necessary or appropriate to provide for the issuance of the policy by a pool or by otherwise allocating the risk to be insured to two or more insurers (acting through the all-industry placement facility described in section 206 or otherwise);

(3) all extended health insurance policies for which application is made by eligible individuals under the plan will be promptly written after such application and the payment of initial premium and will be separately coded so that appropriate records may be compiled for purposes of performing loss prevention and other studies of the operation of the plan;

(4) such reports as the Secretary shall by regulation prescribe will be submitted to the State insurance authority and to the Secretary setting forth information, by individual insurers, including the number of risks insured under the plan and such other information as the State insurance authority or the Secretary may request;

(5) notice will be given to the policy holder a reasonable time prior to the cancellation or nonrenewable by an insurer of any policy written under the plan (except in case of

nonpayment of premium), in order to allow ample time for an application for new coverage to be made and a new policy to be written under the plan; and

(6) a continuing public education program will be undertaken by the participating insurers, agents, and brokers to assure that the plan receives adequate public attention.

(d) Each plan shall in addition contain such terms, conditions, requirements, and other provisions as the Secretary shall determine to be necessary or appropriate to carry out the purpose of this Act.

ELIGIBLE INDIVIDUALS

SEC. 203. For the purpose of this Act, and for the purpose of any State plan submitted under section 202 and the insurance policies issued thereunder, an individual shall be an eligible individual if (1) he resides in the State submitting such plan, and makes application for extended health insurance coverage under such a policy in such manner and form as the State insurance authority (in accordance with regulations of the Secretary) shall direct, or (2) he is not an eligible individual under clause (1) but is a member of the household of a person who is an eligible individual under clause (1), and is such person's spouse, child, grandchild, parent, or grandparent.

PREMIUMS

SEC. 204. (a) The Secretary is authorized to undertake and carry out such studies and investigations and receive or exchange such information as may be neccessary to estimate—

(1) the premium rates for extended health insurance which, based on consideration of the risks involved and accepted actuarial principles, would be required in order to make such insurance available on an actuarial basis, and

(2) the rates, if less than the rates established under paragraph (1), which would be reasonable, would encourage prospective insureds to purchase extended health insurance, and would be consistent with the purpose of this Act.

(b) On the basis of estimates made under subsection (a) and such information as may be necessary, the Secretary shall from time to time prescribe by regulation the premium rates which may be charged for extended health insurance under policies issued by insurers under State plans approved under section 202. Such rates may vary according to the number of individuals in the insured individual's family who are covered by the policy, and on the basis of such other factors as the Secretary may find to justify rate differences (whether based on differences in the risks involved in the coverage or otherwise). Losses sustained by insurers and pools charging premium rates prescribed under this subsection which are lower than the corresponding estimated risk premiums determined under subsection (a)(1) shall be compensated for by premium equalization payments made as provided in section 504.

(c) Premium rates prescribed under subsection (b) shall, insofar as practicable, be—

(1) based on a consideration of the risks involved in the coverage, including differences in risks due to family size or composition;

(2) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or if less than an amount adequate to provide such reserves, consistent with the objective of making extended health insurance coverage available so as to encourage prospective insureds to purchase such insurance and with the purpose of this Act; and

(3) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk premium rates determined under subsection (a)(1), the estimated rates determined under subsection (a)(2), and the rates actually prescribed under subsection (b).

DEDUCTIBLES

SEC. 205. (a) The total amount payable to or with respect to any eligible individual on account of costs of medical care paid or incurred in any year under an extended health insurance policy issued by an insurer or pool under a State plan approved under section 202 may be reduced by a deductible equal to so much of such costs, actually paid or incurred by such individual, as does not exceed the amount determined under subsection (b).

(b) The deductible for any individual or family for purposes of subsection (a), with respect to costs of medical care paid or incurred in any year, shall be—

(1) 50 per centum of the amount by which the adjusted income of such individual or family for such year exceeds $1,000 but does not exceed $2,000, plus

(2) 100 per centum of the amount by which the adjusted income of such individual or family for such year exceeds $2,000.

No deductible may be imposed in the case of an individual or family whose adjusted income does not exceed $1,000.

(c) Notwithstanding any other provision of law, the deductible applicable with respect to any individual or family for any year under this section shall be reduced by the amount of any payments made toward the costs of medical care of such individual or the members of such family under title XVIII or XIX of the Social Security Act or under any other public or private health insurance policy covering such medical care.

(d) As used in this section with respect to any individual or family for any year, the term "adjusted income" means the gross income of such individual or family for purposes of chapter 1 of the Internal Revenue Code of 1954, reduced by the aggregate amount of the personal exemptions allowed such individual or the members of such family for such year under section 151 of such Code.

(e) For purposes of subsections (a) and (b), if an individual pays or incurs costs of medical care in any year with respect to a specific illness or injury which began in a previous year and continued without interruption until the time such costs are so paid or incurred, such costs shall be considered to have been paid or incurred in such previous year.

ALL-INDUSTRY PLACEMENT FACILITY

SEC. 206. Any plan under this title shall include an all-industry placement facility doing business with every insurer participating in the plan in the State, and shall provide that this facility shall perform certain functions including, but not limited to, the following:

(1) seeking, upon request, to distribute the risks involved in the issuance of any extended health insurance policy or class of policies equitably among the insurers with which it is doing business; and

(2) seeking to place insurance up to the full insurable value of the risk to be insured with one or more insurers with which it is doing business, except to the extent that deductibles, percentage participation clauses, and other underwriting devices are employed to meet special problems of insurability.

INDUSTRY COOPERATION

SEC. 207. (a) Each insurer seeking reinsurance under this Act shall file a statement with the State insurance authority in each State in which it is participating in a plan under this title, pledging its full participation and cooperation in carrying out the plan, and shall file a copy of such statement with the Secretary.

(b) No insurer acquiring reinsurance under this Act shall direct any agent or broker or other producer not to solicit business through such a plan, nor shall any agent, broker, or other producer be penalized by such insurer in any way for submitting applications for insurance to an insurer under the plan.

PLAN EVALUATION

SEC. 208. (a) In accordance with such rules and regulations as the Secretary may prescribe, each State insurance authority shall—

(1) transmit to the Secretary any proposed or adopted plan, or amendments thereto; and

(2) advise the Secretary, from time to time, concerning the operation of the plan, its effectiveness in providing extended health insurance, and the need to form a pool of insurers or adopt other programs to make extended health insurance more readily available in the State.

(b) The Secretary may by rules and regulations modify the plan criteria set forth under this title, if he finds, on the basis of experience, that such action is necessary or desirable to carry out the purpose of this Act. The Secretary may also, with respect to any State, waive compliance with one or more of the plan criteria, upon certification by the State insurance authority that compliance is unnecessary or inadvisable under local conditions or State law.

TITLE III—REINSURANCE COVERAGE

REINSURANCE OF LOSSES UNDER EXTENDED HEALTH INSURANCE POLICIES

SEC. 301. (a)(1) The Secretary is authorized to offer to any insurer or pool, subject to the conditions set forth in section 303, reinsurance against losses under extended health insurance policies under the plan or plans of any one or more States.

(2) Reinsurance shall be offered to any such insurer or pool only on all extended health insurance written by it or by its members.

(b) Reinsurance coverage under this section may be provided immediately following the enactment of this Act to any insurer or pool in any State on a temporary basis, and on such terms and conditions as may be agreed upon, and coverage under such terms and conditions may be bound with respect to any such insurer or pool by means of a written binder which shall remain in force not more than ninety days and shall expire at the earlier of either—

(1) the termination of such ninety-day period, or

(2) the effective date of any governing contract, agreement, treaty, or other arrangement entered into between the insurer or pool and the Secretary under section 302 for the purpose of providing reinsurance coverage against losses under extended health insurance policies.

(c) No reinsurance shall be offered to any insurer or pool in a State after the expiration of the written binder entered into under subscetion (b), unless there is in effect in such State a plan as set forth under title II and the insurer or pool is participating in such plan, and unless, in the case of an insurer in a State where a pool has been established pursant to State law, the insurer is participating in such a pool.

REINSURANCE AGREEMENTS AND PREMIUMS

SEC. 302. (a) During the first year following the date of the enactment of this Act, the Secretary is authorized to enter into any contract, agreement, treaty, or other arrangement with any insurer or pool for reinsurance coverage, in consideration of payment of such premiums, fees, or other charges by insurers or pools as the Secretary deems to be adequate to obtain aggregate reinsurance premiums for deposit in the National Catastrophic Illness Insurance Fund established under section 503 in excess of the estimated amount of losses under extended health insurance policies during such first year, and thereafter the Secretary may increase or decrease such premiums for reinsurance if it is found that such action is necessary or appropriate to carry out the purpose of this Act.

(b) Reinsurance offered under this Act shall reimburse an insurer or pool for its total proved and approved claims for covered losses under extended health insurance policies during the term of the reinsurance contract, agreement, treaty, or other arrangement, over and above the amount of the insurer's or pool's retention of such losses as provided in such reinsurance contract, agreement, treaty, or other arrangement entered into under this section.

(c) Such contracts, agreements, treaties, or other arrangements may be made without regard to section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a)), and shall include any terms and conditions which the Secretary deems necessary to carry out the purpose of this Act. The premium rates, terms, and conditions of such contracts with insurers or pools, throughout the country, in any one year shall be uniform.

(d) Any contract, agreement, treaty, or other arrangement for reinsurance under this section shall be for a term expiring on April 30, 1971, and on April 30 each year thereafter, and shall be entered into within ninety days after the date of the enactment of this Act or within ninety days prior to April 30 each year thereafter, or within ninety days after an insurer is authorized to write insurance eligible for reinsurance in a State which it was not authorized to write in the preceding year.

CONDITIONS OF REINSURANCE

SEC. 303. (a) Subject to the provisions of subsection (b), reinsurance shall not be offered by the Secretary in a State or be applicable to insurance policies written in that State by an insurer—

(1) after one year following the date of the enactment of this Act, or, if the appropriate States legislative body has not met in regular session during that year, by the close of its next regular session, in any State which has not adopted appropriate legislation, retroactive to the date of the enactment of this Act, under which the State, its political subdivisions, or a governmental corporation or fund established pursuant to State law, will reimburse the Secretary, in an amount up to 5 per centum of the aggregate extended health insurance premiums earned in that State during the preceding calendar year on insurance reinsured by the Secretary in that State during the current year, such that the Secretary may be reimbursed for amounts paid by him in respect to reinsured losses that occurred in that State during a calendar year in excess of (A) reinsurance premiums received in that State during the same calendar year plus (B) the excess of (i) the total premiums received by the Secretary for reinsurance in that State during a preceding period measured from the end of the most recent calendar year with respect to which the Secretary was reimbursed for losses under this Act over (ii) any amounts paid by the Secretary for reinsured losses that occurred during this same period;

(2) after thirty days following notification to the insurer that the Secretary finds (after consultation with the State insurance authority) that there has not been adopted by the State, or the extended health insurance industry in that State, a suitable program or programs, in addition to plans under tile II, to make extended health insurance available, and that such action is necessary to carry out the purpose of this Act; except that this paragraph shall not become effective until two years after the date of the enactment of this Act, or at such earlier date as the Secretary, after consultation with the State insurance authority, may determine;

(3) after thirty days following notification to the insurer that the Secretary, or the State insurance authority, finds that such insurer is not fully participating—

(A) in the plan in the State;

(B) where it exists, in a pool; and

(C) where it exists, in any other program found by the Secretary to aid in making extended health insurance more readily available in the State: *Provided,* That the Secretary shall not make any such finding with respect to any insurer unless (i) prior to making such finding the Secretary has requested and considered the views of the State insurance authority as to whether such finding should be made, or (ii) the Secretary has made such a request in writing to the State insurance authority and such authority has failed to respond thereto within a reasonable period of time after receiving such request;

(4) following a merger, acquisition, consolidation, or reorganization involving one or more insurers having extended health insurance in the State reinsured under this Act and one or more insurers with or without such reinsurance, unless the surviving company—

(A) meets the criteria of eligibility for reinsurance, other than as provided under section 302(d); and

(B) within ten days pays any reinsurance premiums due; or

(5) upon receipt of notice from the insurer or pool that it desires to cancel its reinsurance agreement with the Secretary in the State.

(b) Notwithstanding the foregoing provisions of this section, reinsurance may be continued for the term of the policies written prior to the date of termination or nonrenewal of reinsurance under this section, for as long as the insurer pays reinsurance premiums annually in such amounts as are determined under section 302, based on the annual premiums earned on such reinsured policies, and for the purpose of this subsection, the renewal, extension, modification, or other change in a policy, for which any additional premium is charged, shall be deemed to be a policy written on the date such change was made.

RECOVERY OF PREMIUMS; STATUTE OF LIMITATIONS

SEC. 304. (a) The Secretary, in a suit brought in the appropriate United States district court, shall be entitled to recover from any insurer the amount of any unpaid premiums lawfully payable by such insurer to the Secretary.

(b) No action or proceeding shall be brought for the recovery of any premium due to the Secretary for reinsurance, or for the recovery of any premium paid to the Secretary in excess of the amount due to him, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except that, where the insurer has made or filed with the Secretary a false or fraudulent annual statement, or other document with the intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Secretary.

TITLE IV—GOVERNMENT PROGRAM WITH INDUSTRY ASSISTANCE

FEDERAL OPERATION OF THE PROGRAM IN NONCOOPERATING STATES

SEC. 401. (a) If at any time, after consultation with representatives of the insurance industry, the Secretary determines that operation of the national catastrophic illness insurance program as provided in the preceding provisions of this Act cannot be carried out in any State, or that such operation in any State, in itself, would be assisted materially by the Federal Government's assumption, in whole or in part, of the operational responsibility for extended health insurance under this Act (on a temporary or other basis), he shall promptly undertake any necessary arrangements to carry out such program in that State through the facilities of the Federal Government, utilizing, for purposes of providing extended health insurance coverage, either—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States,

(2) officers and employees of the Department of Health, Education, and Welfare, and such other officers and employees of any executive agency (as defined in section 105 of title 5 of the United States Code) as the Secretary and the head of any such agency may from time to time, agree upon, on a reimbursement or other basis, or

(3) both the alternatives specified in paragraphs (1) and (2).

(b) Upon making the determination referred to in subsection (a), with respect to any State, and at least thirty days prior to implementing the national catastrophic illness insurance program in such State through the facilities of the Federal Government, the Secretary shall make a report to the Congress and such report shall—

(1) state the reasons for such determination,

(2) be supported by pertinent findings,

(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing extended health insurance coverage under the program, and

(4) contain such recommendations as the Secretary deems advisable.

ADJUSTMENT AND PAYMENT OF CLAIMS

SEC. 402. In the event the program is carried out as provided in section 401, the Secretary shall be authorized to adjust and make payment of any claims for proved and approved losses covered by extended health insurance, and upon the disallowance by the Secretary of any such claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant shall have the right of judicial review as provided by section 501(b).

TITLE V—PROVISIONS OF GENERAL APPLICABILITY

CLAIMS AND JUDICIAL REVIEW

SEC. 501. (a) All reinsurance claims for losses under this Act shall be submitted by insurers in accordance with such terms and conditions as may be established by the Secretary.

(b)(1) Upon disallowance of any claim under color of reinsurance made available under this Act or any claim against the Secretary under section 402, or upon refusal of the claimant to accept the amount allowed upon any such claim, the claimant may institute an action against the Secretary on such claim in the United States district court for the district in which the insurer's principal office is located or the insured individual resides (or resided).

(2) Any such action must be begun within one year after the date upon which the claimant received written notice of disallowance or partial disallowance of the claim, and exclusive jurisdiction is hereby conferred upon United States district courts to hear and determine such actions without regard to the amount in controversy.

FISCAL INTERMEDIARIES AND SERVICING AGENTS

SEC. 502. (a) In order to provide for maximum efficiency in the administration of the reinsurance program under this Act, and in order to facilitate the expeditious payment of any funds under such program, the Secretary may enter into contracts with any insurer, pool, or other person, for the purpose of providing for the performance of any or all of the following functions:

(1) estimating or determining any amounts of payments for reinsurance claims;

(2) receiving and disbursing and accounting for funds in making payments for reinsurance claims;

(3) auditing the records of any insurer,

pool, or other person to the extent necessary to assure that proper payments are made;

(4) establishing the basis of liability for reinsurance payments, including the total amount of proved and approved claims which may be payable to any insurer, and the total amount of premiums earned by any insurer in the respective States for reinsured extended health insurance; and

(5) otherwise assisting in any manner provided in the contract to further the purpose of this Act.

(b) (1) Any such contract may require the insurer, pool, or other person, or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amounts as the Secretary may deem appropriate.

(2) In the absence of gross negligence or intent to defraud the United States—

(A) no individual designated pursuant to a contract under this section to certify payments shall be liable with respect to any payment certified by him under this section; and

(B) no officer of the United States disbursing funds shall be liable with respect to any otherwise proper payment by him if it was based on a voucher signed by an individual designated pursuant to a contract under this section to certify payments.

NATIONAL CATASTROPHIC ILLNESS INSURANCE FUND

SEC. 503. (a) To carry out the program authorized under this Act, the Secretary is authorized to establish a National Catastrophic Illness Insurance Fund (hereinafter called the "fund") which shall be available, without fiscal year limitations—

(1) to make such payments as may, from time to time, be required under reinsurance contracts under this Act;

(2) to make premium equalization payments as provided in section 504; and

(3) to pay such administrative expenses as may be necessary or appropriate to carry out the purpose of this Act.

(b) The fund shall be credited with—

(1) reinsurance premiums, fees, and other charges which may be paid or collected in connection with reinsurance provided under title III;

(2) interest which may be earned on investments of the fund;

(3) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities; and

(4) receipts from any other source which may, from time to time, be credited to the fund.

(c) If, after any amounts which may have been advanced to the fund from appropriations have been credited to the appropriation from which advanced, the Secretary determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(d) An annual business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847–849)) for wholly owned Government corporations.

PREMIUM EQUALIZATION PAYMENTS

SEC. 504. (a) The Secretary, on such terms and conditions as he may from time to time prescribe, shall make periodic payments to insurers and pools in recognition of such reductions in premium rates under section 204(b) below estimated risk premium rates under section 204(a)(1) as are required in order to make extended health insurance available on reasonable terms and conditions.

(b) Designated periods under this section and the methods for determining the sum of premiums paid or payable during such periods shall be established by the Secretary.

RECORDS, ANNUAL STATEMENT, AND AUDITS

SEC. 505. (a) Any insurer or pool acquiring reinsurance under this Act shall furnish the Secretary with such summaries and analyses of information in its records as may be necessary to carry out the purpose of this Act, in such form as the Secretary, in cooperation with the State insurance authority, shall, by rules and regulations, prescribe. The Secretary shall make use of State insurance authority examination reports and facilities to the maximum extent feasible.

(b) Any insurer or pool acquiring reinsurance under this title shall file with the Secretary a true and correct copy of any annual statement, or amendment thereof, filed with the State insurance authority of its domiciliary State, at the time it files such statement or amendment with such State insurance authority.

(c) Any insurer or other person executing any contract, agreement, or other appropriate arrangement with the Secretary under section 302 or section 502 shall keep reasonable records which fully disclose the total costs of the programs undertaken or the services being rendered, and such other records as will facilitate an effective audit of liability for reinsurance payments by the Secretary.

(d) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of investigation, audit, and examination to any books, documents, papers, and records of any insurer or other person that are pertinent to the costs of any program undertaken for, or services rendered to, the Secretary. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities.

GENERAL POWERS

SEC. 506. In the performance of, and with respect to, the functions, powers, and duties vested in him by this Act, the Secretary shall (in addition to any authority otherwise vested in him) have the same functions, powers, and duties (including the authority to issue rules and regulations) as those vested in the Secretary of Housing and Urban Development under section 402, except subsections (c)(2), (d), and (f), of the Housing Act of 1950. Any rules or regulations of the Secretary shall only be isued after notice and hearing, if granted, a required by the Administrative Procedure Act.

SERVICES AND FACILITIES OF OTHER AGENCIES—UTILIZATION OF PERSONNEL, SERVICES, FACILITIES, AND INFORMATION

SEC. 507. The Secretary may, with the consent of the agency concerned, accept and utilize, on a reimbursable basis, the officers, employees, services, facilities, and information of any agency of the Federal Government, except that any such agency having custody of any data relating to any of the matters within the jurisdiction of the Secretary shall, to the extent permitted by law, upon request of the Secretary, make such data available to the Secretary.

ADVANCE PAYMENTS

SEC. 508. Any payments which are made under the authority of this Act may be made, after necessary adjustments on account of previously made underpayments or overpayments in advance or by way of reimbursement. Payments may be made in such installments and on such conditions as the Secretary may determine.

TAXATION

SEC. 509. The National Catastrophic Illness Insurance Fund, including its reserves, surplus, and income, shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, or any subdivision thereof, except that any real property acquired by the Secretary as a result of reinsurance shall be subject to taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

APPROPRIATIONS

SEC. 510. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

The remarks and analysis, presented by Mr. BOGGS, are as follows:

[From the CONGRESSIONAL RECORD, June 10, 1970]

NATIONAL CATASTROPHIC ILLNESS PROTECTION ACT OF 1970

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 30 minutes.

Mr. HOGAN. Mr. Speaker, I have today introduced a bill (H.R. 18008) on which I have been working for several months and which I consider to be an extremely important piece of legislation.

The legislation, the National Catastrophic Illness Protection Act of 1970, would, if enacted, allow our Nation's families to protect themselves against the scourge of catastrophic illness. The bill would provide the mechanism for such protection in a manner which would involve a very small Federal expenditure.

Catastrophic illness, by definition, would comprise those illnesses which require health-care expenses in excess of what normal basic medical or major medical coverage provides protection for. Once a family finds itself faced with having to pay for health-care costs of an extended nature, they are saddled with a financial burden that is staggering to comprehend.

Imagine, if you will what it means to finance for years hospital care which will run between $80 and $100 a day after your routine insurance has been exhausted. For middle-income Americans who earn too much to receive welfare and who are not rich enough to even begin to meet such obligations, the result of catastrophic illness is instant poverty. The family is driven to its knees.

Such a family, which has probably already watched one of its members incapacitated and perhaps destroyed medically, also finds that its financial stability has disintegrated Usually, private hospitals cannot afford to provide care after the family can no longer afford to pay for the hospital's services. This means that the afflicted member of the family must be transferred to whatever public facility exists to treat patients under such circumstances. Unfortunately, these public institutions are often understaffed, underequipped, and horribly overcrowded. All too often they become depositories where families must leave their children or other loved ones, because the doors of all other possible assistance have been slammed in their faces.

Catastrophic illness does not refer to a specific or rare disease. It is any disorder—from the exotic calamity to the common coronary. It is the fall from a step ladder in a home, a highway accident, or even the untimely sting of a bee, which cost one family over $57,000. It is anything that happens to any

of us that causes medical expense in excess of what the actuaries tell us we should expect. Virtually every family becomes medically destitute when that point is reached. Fortunately only a small portion of medical cases are of such magnitude. But for the thousands of families who, through no fault of their own, find themselves pummeled into such an abyss, there is—currently—no hope.

While catastrophic illness is nondiscriminating in whom it attacks, when it attacks and where it attacks, it seems that a tragically high number of these cases involve children. When a child is the victim, the parents are often young marrieds who find themselves depriving their healthy children of a wholesome family life in order to finance the health care of a sick child. Often, the havoc is so great that the young couples must watch their dreams go down the drain as all present and future planning is marshaled toward the single goal of finding the money to pay for their ill child's care. While nearly all of the pediatric diseases that are catastrophic are individually rare in the aggregate they afflict more families than most of us would imagine. The list of obscure diseases such as Tay-Sachs disease, Niemann-Pick disease, Gaucher's disease, Fabrey's disease, metachromatic-leukodystrophy, leukemia, muscular dystrophy, myasthenia gravis, and the scores and scores of other maladies that destroy our people at enormous emotional and financial cost to their families appears endless.

Obviously, when catastrophic illness strikes the head of a household—the breadwinner—the diaster is compounded.

We are too great a nation to stand idly by—leaving our families that are victimized by catastrophic illness to their own devices. They have no devices. They are alone.

The legislation which I am proposing will go along way toward mitigating against the problems of catastrophic illness because it will stimulate our insurance industry to provide coverage that will allow any family to protect itself fully against the costs of catastrophic illness. The legislation would foster the creation of catastrophic illness—or extended care—insurance pools similar to those that have been successful in making flood insurance and riot insurance feasible.

Because all participating insurance companies would be required to promote the plan aggressively, and because we would be dealing, statistically, with a small minority of all claims, the cost per policy should be low. As more people buy this new protection as part of their health care program, thereby spreading the risk, the cost should drop even more. The Federal role would be limited to reinsuring against losses in those instances where insurance companies paid out more in benefits than they took in in premiums. As the insurance industry gained experience under the plan they would be able to sharpen their actuarial planning so that such losses should be limited, if they occur at all.

We have taken careful steps to preserve the State role in insurance administration and to allow the Secretary of Health, Education, and Welfare to participate in the actuarial review of the policy rate structure in order to assure that the rates charged for those new policies are fair to all parties concerned.

Perhaps the most attractive feature of this legislation is that it would be free of all of the constraints that are plaguing existing federally funded health care programs. We would not be overburdening an already overburdened social security system in order to finance the plan. Families who choose not to participate in the program would not be required to do so. However, on the other hand, families desiring to secure this protection would be assured of an opportunity to do so.

Under my program a deductible formula would be used to stimulate each family to provide basic health care protection. It would only be when this deductible level had been exceeded that the catastrophic insurance protection plan would be utilized. Under our formula, a family with an adjusted gross income of $10,000 would have to either pay the first $8,500 of medical expense or have provided themselves with $8,500 worth of basic insurance protection to offset the deductible requirement. Coverage from existing basic health and major medical plans would generally be sufficient to satisfy this deductible amount. However, if a family with an adjusted gross income of $10,000 incurred expenses during the period of a year that exceeded $8,500, our catastrophic or extended care program would be available to see the family through the period of financial burden when they would ordinarily be left on their own without help.

Again, because relatively few families would experience medical costs of this magnitude in a single year, the costs for this insurance should be quite reasonable—especially as more and more of our citizens availed themselves of its protection.

In developing this legislation I have met with many individuals uniquely experienced in the problems of catastrophic illness. I have discussed this proposal at great length with members of the medical community and have consulted leading members of the insurance community. More important, I have met with families that have been victimized by catastrophic illness. I have studied their plight in great detail. I know that it is wrong that these families are, in effect, abandoned—almost as a small boat adrift in stormy water.

I know that we can do something to help them and we do not have to spend ourselves into Federal bankruptcy to do it. All we need do is utilize a concept that has been tested successfully in other analogous areas.

I know someone who has watched a rare, truly catastrophic illness, strike and ravage a son—my good friend and former partner, Harold Gershowitz. He, incidentally, suggested the idea for this legislation. In watching his young son slowly die he has chronicled many of his thoughts during this experience in a book of verse. One of his entries seems particularly appropirate to the business before us.

Harold Gershowitz observed that we all seem too busy with the tumultuous pace of day-to-day living to take the time to reflect about those whom life is passing by.

Let me share with you his poem entitled "Beautiful Children":

"Everyone seems busy
Shopping, working, driving, dating—
While beautiful children lie patiently waiting.

"Highways are paved, homes are built
And life keeps rushing ahead—
While beautiful children
Live out their lives having never left their bed.

"The seasons come and the seasons go
And we hope for the good times they bring—
While beautiful children
Wait . . . having never known the Fall
And having never seen the Spring.

"Our cities are filled with streets and playgrounds
Where boys and girls run and shout,
But there are also institutions filled
With beautiful children
Who have no idea what life is about.

"Life can be hectic and full of petty problems
With which we seem too busy to cope,
But there are all these beautiful children
And we busy people are their only hope."

There are indeed, all these beautiful children, and there are their families—the teenagers, the adults, and the senior citizens some of whom are victims—and all of whom are candidates for catastrophic illness.

Indeed, we busy people here in this Chamber are their only hope.

I urge my colleagues to support the national catastrophic illness protection bill.

National Catastrophic Illness Protection Act of 1970

(Introduced by Representative Lawrence J. Hogan (Republican of Maryland) June 10, 1970)

Purpose and organization of legislation

The proposed National Catastrophic Illness Protection Act of 1970 is designed to encourage private health insurers, with the assistance of the Federal Government, to provide adequate health insurance protection for persons who cannot otherwise afford such protection, or whose medical and health expenses are such that extended health insurance protection is not available. According to the findings outlined by Congress in the proposal, "many individuals are still unable to secure adequate health insurance protection or to secure such protection at rates which they can afford" and "few of our citizens are protected" from the costs of "catastrophic illness."

To deal with these problems, the bill would create a Federal health reinsurance program designed to encourage the development by the private insurance industry of policies which would afford individuals extended protection. Working with the industry, the Government would reinsure policies on terms and conditions calculated to provide maximum encouragement to insurance companies to participate in the program, either individual or through pools established for the purpose.

The legislation contains five titles designed to meet the program's objectives. Title I contains general provisions relating to the program, including the statement of Congressional findings and a section setting forth the definitions used in the proposal. Title II establishes the National Catastrophic Insurance Program by means of State-wide plans providing extended health insurance coverage through a program by which the Federal Government reinsures losses of insurers or pools of insurers offering extended health insurance policies. Title III contains the Federal reinsurance mechanism for protecting insurers against losses incurred by plans provided under title II of the bill. Title IV of the legislation establishes a separate reinsurance program to operate in those States where a State-wide plan is not developed in accordance with title II of the bill. Title V of the proposal contains general provisions relating to claims and judicial review procedures and Federal financial obligations in connection with the reinsurance programs established under titles II and IV of the bill.

Section-by-section analysis

Title I—General Provisions

Section 101—*Short Title.* Provides that the legislation may be known as the "National Catastrophic Illness Protection Act of 1970."

Section 102—*Findings and Purposes.* Sets forth the findings of the Congress that there are still many individuals who cannot secure or cannot afford adequate health insurance protection and that very little insurance protection is available to help meet the costs of catastrophic illness or disease. Establishes as the policy of Congress the need for a National Catastrophic Illness Insurance program to encourage States and private insurers in the development of policies which will meet the problems set forth in the statement of findings.

Section 103—*Definitions.* Defines certain terms used in the Act, such as "extended health insurance," "costs of medical care," "insurer," "pool" and "reinsured losses." Among the definitions are:

(1) *Extended health insurance,* meaning insurance against all costs paid or incurred for medical care as defined in the Internal Revenue Act.

(2) *Costs of medical care,* include expenses of medical care incurred by or on behalf of persons covered by an extended health insurance policy which are deductible in accordance with provisions in the IRS Code.

(3) *Insurers,* include any insurance company or group of companies under common ownership authorized to engage in the insurance business under laws of a State.

(4) *Pool,* meaning association of insurance companies in a State formed or organized for the purpose of making extended health insurance more readily available.

(5) *Reinsured losses,* meaning losses on reinsurance claims under this Act and all direct expenses incurred in connection with such claims, including processing, verifying, and paying such losses.

Title II—Establishment of program; State plans

Section 201—*Authority.* Authorizes the Secretary of Health, Education and Welfare to establish and carry out a National Catastrophic Illness Insurance Program.

Section 202—*State Plans.* Provides that the program shall involve the creation of Statewide plans providing extended health insurance, and that the Federal Government will reinsure insurers and pools of insurers who offer such insurance. Each insurer (or pool of insurers) will work with the State insurance authority in carrying out the Statewide plan. All plans would have to include:

(1) that extended health insurance be available to all eligible individuals, as defined in Sec. 203, and at a cost which is reasonable, as defined in Sec. 204, subject only to deductibles authorized in Sec. 205.

(2) that where an insurer does not agree to write a policy of extended insurance, or does so under various limiting conditions, the State authority is notified. The policy would then be placed with a pool or otherwise assigned to insurers by the "all-industry placement facility," provided for in Sec. 206.

(3) that data be compiled and studied in connection with the operation of the Statewide plan.

(4) that certain reports be submitted to the State insurance authority by individual insurers.

(5) that any cancellation of a policy provide for reasonable notice to permit coverage under a new policy to be written under the plan.

(6) that public information about the plan be readily distributed.

Further, each plan would have to contain such terms, conditions, requirements and other provisions determined to be necessary to carry out the purpose of the program.

Section 203—*Eligible Individuals.* In order to be eligible for policies issued under a State-wide plan, an individual would have to be a resident of the State and make appropriate application, or be a member of the household of such a person and his spouse, child, grandchild, parent or grandparent.

Section 204—*Premium Setting.* Premium rates would be set on the basis of a study of the risks in question and accepted actuarial principles. These rates would be promulgated by the Secretary for use by States and insurers in charging for extended health insurance issued under plans approved under Sec. 202 above. Rate differentials would be authorized on the basis of the number of persons covered in a family, or by other factors approved by the Secretary, including the different risks involved in various coverage arrangements. Where insurers established rates lower than those promulgated by the Secretary, any losses sustained by these insurers or pools of insurers would be compensated by "premium equalizers" provided for in Sec. 504 of the bill.

Section 205—*Deductibles.* Provides that, before payments are made under an extended insurance policy, a deductible must be satisfied through an equal amount of medical expenses paid or incurred by such individual. The amount of such deductible is determined by relating the extent of medical expenses to adjusted income and is equal to one-half of the amount by which a person's or family's adjusted income exceeds $1,000 but does not exceed $2,000; *plus* all of the amount by which such adjusted income exceeds $2,000. (A person with an adjusted income of $10,000 would have a deductible of $8,500.)

For the purposes of this section, the term "adjusted income" means the gross income of an individual or family for tax purposes less the aggregate amount of personal tax exemptions allowed the individual or family.

For satisfying the deductible, costs paid and incurred with respect to an illness which began in the previous year and continued uninterrupted until such costs were paid or incurred, shall be considered to have been paid or incurred in such previous year.

The deductible would be reduced by the amount of any payments, for the costs of care covered by the Medicare and Medicaid programs, or by any other public or private health insurance policy covering such care.

Section 206—*All Industry Placement Facility.* A State-wide plan must provide for an all-industry placement facility which would have the responsibility of distributing equitably the risks involved in the issuance of extended health insurance and which would seek to place insurance up to the full insurable value of the risk to be insured.

Section 207—*Industry Cooperation.* Provides that certain statements pledging participation and cooperation with the State insurance authority would be required of insurers seeking reinsurance under the program. In addition, no insurer shall direct any agent or broker not to solicit business through such a plan, nor penalize agents or brokers in any manner for submitting applications under the plan.

Section 208—*Plan Evaluation.* Provides that the State plan shall be evaluated from time to time in accordance with criteria established by the Secretary.

Title III—Reinsurance coverage

Section 301—*Reinsurance of Losses under Extended Health Insurance Policies.* Provides that the Secretary is authorized to reinsure against the losses which might be incurred under extended health insurance policies. Temporary reinsurance would be authorized immediately after enactment, but at the expiration of such temporary period, only permanent reinsurance is available to insurers participating in a State-wide plan as provided for in title II.

Section 302—*Reinsurance Agreements and Premiums.* Authorizes the Secretary to make agreements with insurers and pools for reinsurance in consideration of payments of reinsurance premiums deposited in the National Catastrophic Illness Insurance Fund provided for in Sec. 503 of the bill. Reinsurance offered would pay an insurer or pool for total proved and approved claims for losses in connection with the provision of extended health insurance over and above the retention of such losses by insurers which were required in accordance with the reinsurance contract. Terms would be made annually in connection with any reinsurance contract.

Section 303—*Conditions of Reinsurance.* Provides a detailed procedure for implementation of the reinsurance program in a State within specified time requirements, taking into account certain State and local factors which might affect such implementation.

Section 304—*Recovery of Premiums; Statute of Limitations.* Provides that the Government may recover in the courts any unpaid premiums lawfully payable to the Government by an insurer under provisions of a 5-year statute of limitations.

Title IV—Government program with industry assistance

Section 401—*Federal Operation of Program in Noncooperating States.* Authorizes after certain determinations that, where a State-wide program cannot be carried out, or that the objective of the program would be materially assisted by the Federal Government's assumption of the plan, arrangements for operation by the Government may be carried out. Insurers would deal directly with the Federal Government as fiscal agents of the United States.

Section 402—*Adjustment and Payment of Claims.* If a Federally-operated program is provided for, the Secretary is authorized to adjust and pay claims for proved and approved losses covered by extended health insurance.

Title V—Provisions of general applicabilitiy

Section 501—*Claims and Judicial Review.* Provides procedures for judicial review of disallowances for claims for losses under the reinsurance program, whether State-wide or operating by the Federal Government.

Section 502—*Fiscal Intermediaries and Servicing Agents.* Authorizes the Government to enter into contracts and other arrangements for claims review, receiving and disbursing funds for making payments, etc.

Section 503—*National Catastrophic Illness Insurance Fund.* Provides for the creation of a fund for purposes of receiving premiums for reinsurance, paying claims, and so on.

Section 504—*Premium Equalization Payments.* Provides that the Secretary may make periodic payments to insurers and pools in recognition of reductions in premium rates below estimated risks as provided for in Sec. 204.

Section 505—*Records, Annual Statement, and Audits.* Self-explanatory.

Section 506—*General Powers.* Authorizes the Secretary of HEW to exercise certain powers vested in the Secretary of HUD under the Housing Act of 1950, in addition to powers provided in this proposal.

Section 507—*Services and Facilities of Other Agencies.* Provides that the Secretary may, on a reimbursable basis, utilize the services of other Government agencies.

Section 508—*Advance Payments.* Authorizes necessary payment adjustments in connection with the program.

Section 509—*Taxation.* Exempts the National Catastrophic Illness Insurance Fund from Federal taxation, except that any real property acquired by the Secretary as the result of reinsurance would be taxable by States or political subdivisions.

Section 510—*Appropriations.* Authorizes such appropriations as are necessary to carry out the provisions of the bill.

APPLICATION OF THE DEDUCTIBLE UNDER THE NATIONAL CATASTROPHIC ILLNESS PROTECTION ACT OF 1970

The deductible, or the amount of medical costs which must be incurred or paid in one year before benefits begin under this insurance, is based on individual or family income and would be as follows:

Adjusted income:	*Deductible*
$1,500	0
2,000	$500
2,500	1,000
3,000	1,500

3,500	2,000
4,000	2,500
4,500	3,000
5,000	3,500

And so on up the scale.

"Adjusted income" means the gross income of an individual or family for tax purposes less the aggregate amount of personal tax exemptions allowed.

The deductible would be reduced by the amount of any payments, for the costs of care covered by the Medicare and Medicaid programs, or by any other public or private health insurance policy covering such care.

Example: A family with an adjusted income of $10,000 would during a year be required to pay or incur medical expenses to the extent of $8,500 (or to have insurance coverage to meet those expenses in whole or in part; Medicare or Medicaid payments would reduce the deductible similarly). At that point all medical expenses regardless of the extent, during that year, or for any lengthy illness or injury the treatment of which extends into another year, would be covered under such a policy.

S. 4032—INTRODUCTION OF A BILL TO ESTABLISH A NATIONAL ADVISORY COMMISSION ON AMERICAN INDIAN EDUCATION

Mr. HARRIS. Mr. President, the cause of the American Indian, Eskimo, and Aleut is in no field more pressing and deserving than in the vital field of education. The need for added funds and changed thinking has never been more urgent. I have lately called this to the attention of the Senate Appropriations Committee, now considering these matters. I ask unanimous consent that my testimony be printed in the RECORD and that a related bill which I herewith introduce may be received and appropriately referred.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). The bill will be received and appropriately referred; and, without objection, the testimony will be printed in the RECORD.

The bill (S. 4032) to establish a National Advisory Commission on American Indian Education, introduced by Mr. HARRIS, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

The testimony, presented by Mr. HARRIS, is as follows:

STATEMENT OF SENATOR HARRIS

Mr. Chairman and members of the Subcommittee, I thank you for this opportunity to present testimony on the appropriations for the Education Services of the Department of the Interior. The increase of $25,993,000 in the 1971 budget along with the $150,000 increase by the House of Representatives for the education of American Indians, Eskimos and Aleuts is encouraging and is desperately needed; but it is still not adequate.

I come today to request additional funding. The basis of my request is need—dire and urgent need for changes and improvement in the education of young American Indian people.

These are the statistics that convey some idea of the depth of the problem:

Ten percent of all American Indians over fourteen years of age have had no schooling at all; sixty percent have less than an eighth grade education; and the average schooling of Indian children is only five years. The average school drop-out rate is fifty percent, compared with a national average of only twenty-nine percent.

Only 57 percent of Indian men are in the labor force, compared with seventy percent for non-Indians—a reflection of levels of education and skills. The rate of unemployment for American Indians remains close to forty percent, reaching eighty percent in some areas at certain seasons. The median income of Indian men is only a little over one-third the median income for non-Indian men.

These are not just abstract figures and statistics. They stand for human beings with less than a full chance to achieve the American promise. They should disturb us greatly and move us to action. And action means, most importantly, more money.

But, I am also convinced that the most generous funding to perpetuate the present system and basic philosophy would still be unsatisfactory. In every other way, except finances, we have done too much, too much of it wrong.

An illuminating story tells of a mother who was teaching her son the concept of choice and sharing. She gave him two apples, a large one and a small one, with the instruction that he give his little sister first choice. Later, the mother saw the girl eating the small apple. Curious, she asked the child if her brother had given her a choice. "Oh, yes," said the child. "He told me I could have the little apple or none at all."

Many American Indians feel this is similar to the choice they have had from the beginning: either become a white man and have a chance, or stay an Indian and suffer.

For five hundred years many Indians have preferred to suffer. Alvin Josephy, in his book, *The Indian Heritage of America*, calls the survival of American Indians one of the most miraculous facts of the mid-twentieth century. "Despite almost five hundred years of a history marked generally by attempts to exterminate American Indians or force them, by one means or another, to adopt the cultures of their conquerors, they—and their attachment to their Indian heritage—are far from extinct."

During the sixties we have begun to see the rise in new streams of thought. American Indians have become more vocal, demanding their right to self-determination without the fear of termination. More non-Indians have begun to understand that the either/or choice for American Indians has been no choice at all.

Angie Debo, an outstanding Oklahoma historian, studied the early education systems of the Choctaw and the Cherokee Indian tribes when they controlled their own schools and wrote of the Choctaws:

"As a result of its excellent public schools system the Choctaw Nation had a much higher proportion of educated people than any of the neighboring states; the number of college graduates one encounters in any contemporary record is surprising; and the quality of written English used by the Choctaws in both their officials and private correspondence is distinctly superior to that of the white people surrounding them."

Angie Debo has written that the Cherokee Nation in Oklahoma in the 1880's had a literacy level in English that surpassed that of the White population in neighboring Texas and Arkansas.

This is what existed a hundred years ago, before control of Indian schools and tribal governments was assumed by the federal government, and the trap of dependence was first sprung.

Where are the Indian school boards Congress approved last year? Funds that were to be used for that purpose have been withheld by the Administration. I can only take this to mean that the government still has not grasped the core of the basic problem, the right and necessity of American Indians to have a real say about the education of their young people. As a beginning step, it is mandatory that we again approve the $300,000 we appropriated last year for this purpose. The money should be used to set up such Indian school boards and provide for expenses in connection therewith.

The rest of my recommendations are for increase of funds in certain areas. We must consider Indian children who attend both reservation and nonreservation public schools. Today, 32.6 percent of Indian children go to BIA schools, and the problems extend beyond the special and tragic problems relating to boarding schools, which I shall discuss later.

Language difficulties, lack of professional guidance and counseling assistance, lack of adequate kindergarten and Head Start programs and other factors have all been suggested as being partially responsible for our failures, and all have contributed to them. I was, therefore, pleased that the 1971 Budget request included a $2,400,000 increase in kindergarten funding for teacher training, visiting coordinators, and other related programs, as well as increases in funding for supplies and materials.

Nevertheless, there are specific programs which I believe should receive additional funding in excess of that requested in the 1971 Budget.

First is the need to double the $1,200,000 requested increase for financial aid to Indian college students. In the Department of the Interior Budget Justifications, FY 1971, it is set forth that there has been a "sharp increase in the number of applications for scholarship aid." It is further set forth that one of the major reasons for Indian students leaving college has been a lack of adequate funding. Even with the 1971 increases for scholarship aid, the average grant per student will only be $1100. This is $100 less than the $1200 average set for grants in 1970 and is substantially below what is provided students in vocational training. Because of the inadequacy of scholarship funds, many married Indian students have not been able to secure scholarships, and those that do, find that they are inadequate. The Indian members of the National Council on Indian Opportunity, earlier this year, stated the need for more Indian teachers. They rightly recognized that one way to solve this problem is to strengthen the scholarship aid program. I, therefore, request that the $1,000,000 increase for the scholarship program voted by the House be retained and increased to $1,200,000.

Secondly, funds are needed for training programs for school teachers, dormitory counselors and others in the local Indian cultures and value systems. When the Choctaws and Cherokees were running their own educational systems, the teachers, of course, understood the backgrounds and ways of the children. Today, teachers without this understanding or training may interpret shyness as lack of ability. The Indian members of the National Council on Indian Opportunity in discussing this problem stated:

"There is no excuse for a quiet, shy Indian child being labeled and treated as dumb and un-responsive by an uncomprehending teacher."

It would be highly beneficial if a training program in the local Indian cultures and value systems could be provided, and I, therefore, recommend that $200,000 be added to the Budget for this purpose.

Thirdly, I recommend that Indian studies courses in the languages, histories and cultures of American Indians be established in all Indian schools or schools of high Indian population—as well as in similar colleges

and universities. As a part of this request, funds should be made available to provide better and more relevant, less derogatory textbooks and other teaching materials concerning American Indians, Eskimos and Aleuts.

A recent article in the *Saturday Review*, entitled, "A Usable History for the Red Man," sets forth the urgent need for this funding. For the benefit of the Subcommittee, a copy of this article is attached, and I ask that it be printed at the conclusion of my remarks.

$200,000 would provide a beginning step this year for the establishment of these much-needed courses and materials. The program should then be expanded as we gain experience.

Fourth, I recommend that the $7,701,000 item in the Budget for operation of Federal schools and dormitories should be increased and should be considered in connection with the urgent need to change our thinking about Indian education.

The purpose of this item is set forth at page IA–16 of the Department of the Interior Budget Justifications, FY 1971, in which it is stated in part:

Without increases in appropriations to offset rising costs, Bureau schools have been forced to curtail purchases of textbooks and instructional supplies, postpone replacement of dormitory furnishings and supplies, and operate schools with inadequate staffing. Pupil-teacher ratios of 30 to 1 are common. Pupil personnel services (guidance and counseling, recreation, school social work, psychological services and special education) are extremely limited. The only meaningful pupil personnel services are guidance and counseling in secondary schools and these are staffed at less than half of national standards for public schools. Textbooks and other educational and dormitory supplies have been depleted, and summer program activities were drastically curtailed. The increases requested will permit the Federal school system to operate at minimum adequate standards—giving schools sufficient text books and teaching supplies to meet needs of the students, allowing for filling of vacancies, and providing furnishings in dormitories at a level adequate to create a homelike atmosphere and acquainting the students with desirable standards of living as well as to make their surroundings safe and comfortable.

Quite obviously, the $7,701,000 is a much-needed item in the Budget, but there is little reason for rejoicing, since only "minimum adequate standards" are assured. Furthermore, even though the high teacher-pupil ratio is admitted and there is obvious inadequacy in guidance counseling, no funds are asked for meeting these needs in the breakdown of the $7,701,000 shown at pages IA–17 and 18.

I would think that, as a minimum, an additional $2,000,000 should be provided for more teachers and for more counseling and guidance personnel.

Fifth, I recommend two rather small increases in the amounts for contracts with state departments of education and public school districts for partial costs of educating increased numbers of Indian students and to meet increased operational costs.

An increase of $501,500 is provided in the Budget request for such counseling and guidance service contracts, but, as set forth in the Budget Justication, that amount "does not provide for any expansion of these services." This program has proved to be beneficial and needed and a commitment to expand it should be made.

An increase of $63,000 is asked in the Budget for teacher aides in public schools contracts. Here, again, apparently no increase is asked in the number of teacher aides, despite the fact that the Budget Justification contains the following comment:

"Indian-speaking aides have proven invaluable in primary groups of Indian-speaking children."

Both of these programs have much merit and should in keeping with increases in enrollment, be expanded. I, therefore, recommend that the items in the Budget for these programs be at least doubled.

These recommendations are essential if we are going to improve the educational opportunities for American Indian, Eskimo and Aleut children in government and public schools.

Even though the funds asked in the President's 1971 Budget and the increases which I requested, are absolutely required, it is still true that the boarding school system will be continued. To be completely realistic, we know at the moment that the only alternative to the boarding school in many areas is no schooling at all.

What does it take for Congress to make a commitment to begin systematically to eliminate boarding schools? The facts that are available should be a sufficient impetus to cause Congress to take drastic action.

Forty-thousand Indian children now attend boarding schools. Of this number, nine-thousand are nine years or under. Unfortunately, many of the boarding schools are not located near enough to the homes of the children to permit even week-end, holiday or occasional weekday visits by parents.

At the present time, only 163 of the 1025 students attending Chilocco Indian School in Oklahoma are from Oklahoma, the remainder being primarily from the Northwest and Alaska. Only 185 of the 322 students attending Concho Indian School in Oklahoma are from Oklahoma. Only 88 of the 275 students at Fort Sill Indian School in Oklahoma are from Oklahoma. And only 71 of the 347 students attending Riverside Indian School in Oklahoma are from Oklahoma.

What are we doing to the Indian child and to his parents by transferring these children hundreds and thousands of miles from home at such young ages? While the rate of suicide for all Indian youth is tragic enough, three times the national average, the average for Indian boarding school students is five to seven times the national average!

The frustrations and heartaches of the Indian parents are intolerable. The following account is all too typical:

"My boy's in Albuquerque Indian School. He's learning to drink. Now the Principal wrote me a letter that he was drinking. He also stole. Was put in jail one night. That's why we want to build a school over there ourselves. We run a school ourselves. Many things to teach them at home—how to farm and put saddles on horses . . . We want our children to write English too. We want our children back."

Another parent after learning of trouble that her Indian daughter had experienced said:

"If she had not had to go hundreds of miles from home this would never have happened."

The thought of sending nine year-old children off to boarding schools away from their homes and the plea to have "our children back" have almost led me to believe the only alternative to boarding schools, no schooling at all, may be preferable if it would force us to wake up to the commitment which is needed to solve this problem.

We know there are solutions. The Ramah High School at Ramah, New Mexico will be reopened for the next school term permitting 150 Indian students to attend school in their own community.

I, therefore, propose that funds be added to the 1971 Budget to establish a National Advisory Commission on American Indian Education that would be directed as follows:

1. to present to the Congress within six months a step-by-step plan for the elimination of Indian boarding schools within a very short period, actually stated. Perhaps other uses could be made of the boarding school facilities such as for vocational training and other such educational uses agreeable to the Indians involved;

2. to draft a comprehensive Indian Education Act to meet the full educational needs of all Indian, Eskimo and Aleut children, not only in government schools, but also in public schools, and providing for better coordination of all Indian education programs;

3. to devise and recommend methods to achieve faster action to permit and encourage greater control of Indian schools by Indians and to increase their participation in decision-making in the public schools; and

4. to recommend ways of utilizing modern educational communication techniques, bilingual methods and other programs to improve educational opportunities of Indian youth as a showcase of the finest education America can provide.

Based on funds provided for similar commissions, I recommend that the sum of $500,000 be provided for this purpose. I am introducing separate authorizing legislation to create this Commission, and I ask that a copy of it be printed at the conclusion of my statement. The Indian members of the National Council on Indian Opportunity recognized the need to completely restructure the "basic educational concepts" of Indian education, stating:

"A full generation of Indian adults have been severly damaged by an unresponsive and destructive educational system. At a time when economic survival in society requires increasing comprehension of both general knowledge and technical skills, Indians are lost at the lowest level of achievement of any group within our society. We must not lose this generation of Indian children as well."

Mr. Chairman, that is the plea—that is our challenge.

In 20th century America, can a people retain their individuality, their unique pride in their past, and still participate fully in the promise of this country? Not simply for the sake of American Indians, but for every minority group, for every individual, for all of us who proudly call ourselves Americans, the answer is "yes," and I hope that this Committee will move to make this possible at last by funding Indian education at a proper level.

ADDITIONAL COSPONSORS OF BILLS

S. 3295

Mr. NELSON. Mr. President, I ask unanimous consent, that at the next printing, the names of the Senator from South Dakota (Mr. McGOVERN) and the Senator from New Hampshire (Mr. McINTYRE) be added as cosponsors of S. 3295, to amend sections 201(s) and 409 of the Federal Food, Drug, and Cosmetic Act, as amended, relating to food additives.

The PRESIDING OFFICER (Mr. BYRD of Virginia). Without objection, it is so ordered.

S. 3604

Mr. KENNEDY. 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 of S. 3604, to authorize the establishment of an older worker community service program.

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

S. 3724

Mr. McGEE. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Alabama (Mr. ALLEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Colorado (Mr. DOMINICK), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Tennessee (Mr. GORE), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Florida (Mr. HOLLAND), the Senator from South Carolina (Mr. HOLLINGS), the Senators from Montana (Mr. MANSFIELD and Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Kansas (Mr. PEARSON), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Alaska (Mr. STEVENS), the Senator from Georgia (Mr. TALMADGE), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) be added as cosponsors of the bill (S. 3724), to amend the Internal Revenue Code with respect to ammunition recordkeeping requirements.

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

S. 3867

Mr. NELSON. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from New Jersey (Mr. WILLIAMS) be added as a cosponsor of 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. BYRD of Virginia). Without objection, it is so ordered.

S. 3974

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Virginia (Mr. SPONG), I ask unanimous consent that, at the next printing, the names of the Senator from California (Mr. CRANSTON), the Senator from California (Mr. MURPHY), the Senator from Delaware (Mr. BOGGS), the Senator from Iowa (Mr. HUGHES), the Senator from New York (Mr. JAVITS), and the Senator from Wisconsin (Mr. NELSON) be added as cosponsors of S. 3974, to provide support for the health manpower needs in the medical and dental educational programs for private nonprofit medical and dental schools in the District of Columbia.

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

IMPROVEMENT AND MODERNIZATION OF THE POSTAL SERVICE—AMENDMENTS

AMENDMENT NO. 742

Mr. HARTKE submitted amendments, intended to be proposed by him, to the bill (S. 3842) to improve and modernize the postal service and to establish the U.S. Postal Service, which were ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 609

Mr. McGOVERN. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Texas (Mr. YARBOROUGH) be added as a cosponsor of amendment No. 609 to H.R. 17123, to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

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

AMENDMENT NO. 720

Mr. BYRD of West Virginia. Mr. President, at the request of the able Senator from Oregon (Mr. HATFIELD), who now presides over the Senate, I ask unanimous consent that, at the next printing of amendment No. 720 to H.R. 15628, to amend the Foreign Military Sales Act, the name of the junior Senator from Oregon (Mr. PACKWOOD) be added as a cosponsor.

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

AMENDMENT NO. 739

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the names of the Senator from North Carolina (Mr. JORDAN), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Oregon (Mr. HATFIELD) be added as cosponsors of amendment No. 739 to S. 3842, to improve and modernize the postal service and to establish the U.S. Postal Service.

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

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

AMENDMENT NO. 742

Mr. JAVITS. Mr. President, I send to the desk an amendment to the Foreign Military Sales Act, and ask that it be printed under the rule.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. JAVITS. Mr. President, the purpose of my amendment is to clarify the situation created by the adoption of amendment 708—the so-called second Byrd amendment.

I opposed amendment 708, as did the Senator from Arkansas (Mr. FULBRIGHT) chairman of the Foreign Relations Committee, because I feel that it has the unfortunate potential for being interpreted as Senate acquiescence in the concept of virtually self-defined power devolving on the President, as Commander in Chief, in the world of "undeclared" wars in which we now live.

My misgivings about the potential effect of the second Byrd amendment, as perhaps prejudicing a definition of the respective war powers of the Congress and the President as Commander in Chief, are shared by others within the Senate, and without.

The Cooper-Church amendment, in my judgment, is an historic move in the Senate to use the Congress' power of appropriations to affect warmaking power. I do not believe anyone has, or could, challenge the clear constitutional power of Congress over appropriations.

In a broader sense, however, the issue before the Senate and the Nation is a new and modern delineation in practice of the respective war powers of the Congress and the President, in the current circumstances. The basic constitutional war powers involved are those specified to the Congress in article I, section 8 of the Constitution, over and above the power of the purse which is not in any dispute whatsoever.

In my judgment, it is most important that Senate action should not have prejudiced the debate, and final delineation, of the policy war powers in dealing with the Cooper-Church amendment which relies on the appropriations power. Yet, I regret to say I believe that the second Byrd amendment has a very serious potential for prejudicing the final outcome of this most vital issue; hence the amendment I now offer.

For, whatever interpretation Senators may put upon the language of amendment 708, the crucial interpretation in practice will be the interpretation of the President who has the sole Executive power to implement the Foreign Military Sales Act.

The purpose of my amendment is to balance off the potentially prejudicial nature of the second Byrd amendment. The Byrd amendment reserves the broadest possible definition of Presidential power.

The problem that I found with it—and I was one of the very few, unhappily for me, who voted against the Byrd amendment—was that it tended to leave to the President the definition of the term "anywhere in the world," in determining what he could do with the Armed Forces of the United States. If a Marine guard's life in an Embassy in Nepal, for example, were in danger, we were really saying to the President, "If you say that you have to engage in military operations to protect that man, we now construe your powers to mean that you can."

My amendment reserves in full the delineation of Congress constitutional powers respecting warmaking. The net

effect is to leave for future consideration a full and open disposition, unprejudiced either way, of the respective war powers of the Congress and the President.

I have introduced a bill, S. 3964, which I feel offers a good solution to the broader question of the division of the war powers. I hope the Senate will have an opportunity to consider the whole historic constitutional issue in connection with S. 3964 and any other bills which might be introduced on this subject. It is too important a matter to be disposed of through any controversial language which imperils, by definition, the division, and balance of the warmaking powers.

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

Mr. JAVITS. I ask for just 1 minute more, Mr. President.

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

Mr. JAVITS. To declare war and to regulate the Armed Forces of the United States.

We are all, in this matter, servants of the Senate. I feel it my duty to submit the question. We will debate it. Let us see what the Senate wants to do. But in the meantime, I should like Senators to feel that they can have a look at it and especially the Senator from West Virginia (Mr. BYRD).

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. BYRD of West Virginia. Mr. President, my first and cursory examination of the amendment which has been offered by the Senator from New York (Mr. JAVITS) leads me to believe that there will be no objection to the amendment, and no opposition.

Certainly there was nothing meant in the language of the Byrd-Griffin amendment No. 708 which was meant to impugn the constitutional powers of Congress. As was stated so many times during the debate, nothing we could add to the language of the bill would in any way add to or detract from the constitutional powers of the President. It was only the fear that we might say something in the Cooper-Church language that would adversely affect or restrict the proper exercise of those constitutional powers by the President as Commander in Chief.

May I say, anent the Senator's reference to the President's power under the Byrd amendment—I believe the Senator indicated that we were leaving up to the President the decision as to when an emergency situation would arise which would necessitate action on his part to protect the lives of American troops. I think the President would have to make that determination.

Mr. JAVITS. Mr. President, would the Senator forgive me for interrupting?

Mr. BYRD of West Virginia. Yes. The Senator has the floor.

Mr. JAVITS. That was not my point. I agree with the Senator in that. The Commander in Chief does have broad Executive and command authority. My point was, "How long, O Lord, and at what cost?"

Mr. BYRD of West Virginia. Once we agree, and I think all sides have agreed, that if there is a dire situation imperiling the lives of American troops, and it is so imminent that it would be impracticable for the President to consult with Congress, then he must act, because he has the constitutional authority and the duty to act, to protect the lives of our servicemen.

Once we open that door, once we admit that he has this power and authority, then I think it becomes academic, because who would decide when such an emergency situation has arisen? Certainly not the 535 Members of Congress, but only the Commander in Chief, under the Constitution, could and would make that decision.

That is what we were saying in the Byrd amendment.

Mr. JAVITS. Mr. President, I think that by expressing himself—and I am very grateful to the Senator for his fairmindedness—as he has on this amendment, he relieves me considerably. My objective is that we should all agree.

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

Mr. JAVITS. One more minute.

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

Mr. JAVITS. I will tell the Senator my fundamental purpose: I think this power to put us into war and to wage war is so awesome that we must share it. That is what I am saying. And that is what the Constitution says, in its deep wisdom.

We have not abdicated our power specified in the Constitution.

Mr. BYRD of West Virginia. I simply wish to assure the Senator from New York again that my examination of his verbiage causes me no concern.

Mr. JAVITS. I thank the Senator.

Mr. CHURCH. Mr. President, I ask unanimous consent that I may have 3 additional minutes.

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

Mr. CHURCH. First, I commend the Senator from New York for the amendment he has offered. It brings back into focus a matter which has become confused.

As I recall, it was the distinguished Senator from North Carolina (Mr. ERVIN) who observed earlier that the provisions of the Constitution exist whether Congress gives explicit recognition to them or not. Senators recognize that the Constitution confers certain powers upon the President, including his function as Commander in Chief. Some Presidents have defined their powers largely; some Presidents have defined them narrowly. The scope of definition is a legitimate subject of debate.

Nothing is said about that in the Cooper-Church amendment. The power the President has as Commander in Chief, whatever it might be, continues to exist. Nothing in our amendment—and we could not do it anyway—impugns such constitutional powers as the President may have as Commander in Chief.

The new amendment offered by the Senator from New York simply treats Congress as we have treated the Presidency. It would make explicit what was already implicit. Thus, we would assert that nothing in the Cooper-Church amendment impugns the constitutional powers that belong to Congress with respect to declaring war, to provide for the Government and regulation of the Armed Forces of the United States, and so forth. The Javits amendment gives proper balance to the proposition that the Constitution vests certain war powers in the Presidency and certain war powers in Congress. That is all.

Let us not lose sight of the fact that the Cooper-Church amendment is an exercise of the power of the purse, an exclusive power of Congress. Only Congress can deny or prohibit the use of public money. If the Cooper Church amendment is agreed to, then the Senate will have said that no public money will be available after July 1 to do particular things in Cambodia. This is Congress' exclusive right. No Senator in the debate has said that the President may spend money in ways prohibited by Congress. No Senator has said that control of the public purse belongs to the President as Commander in Chief.

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

Mr. CHURCH. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

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

Mr. CHURCH. If the Cooper-Church amendment were to become law, Congress, in exercising its exclusive power over the purse, will have declared that after July 1, 1970, no public money will be available for retaining American forces in Cambodia, for sending in American military advisers or instructors, for hiring mercenaries, or for entering into aerial combat above Cambodia in support of Cambodian forces. This was the original substance and thrust of the Cooper-Church amendment, and, after 7 weeks of debate, this remains its substance and thrust.

Hopefully, the Senate will see fit to adopt the amendment when the final vote takes place on Tuesday afternoon.

I commend the Senator from New York for what he has done.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may proceed for 5 minutes to answer questions.

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

Mr. JAVITS. I yield.

Mr. COOPER. Mr. President, the Senator from Idaho has clearly expressed the position of the sponsors of the Cooper-Church amendment. After the first Byrd amendment was defeated, several amendments were proposed by the Senator from West Virginia to the sponsors of the Cooper-Church amendment. As I recall, three or four such amendments were suggested. In each case, we said to the Senator from West Virginia (Mr. BYRD) that we could not go along with the amendments he proposed because they related specifically to and would limit our amendment, and would affect its operative sections.

Senators will remember that the first Byrd amendment would have amended subsection 1 and, was an exception to subsection 1, providing in substance that if the President so determined, nothing would preclude him from using such powers as he thought were necessary to protect our forces to facilitate their withdrawal from Vietnam. In the cosponsors' views, it was an escape clause.

We agreed that as the Mansfield amendment, in a comprehensive but general way, stated that the powers of the President as Commander in Chief should not be impugned and that recognition of the President's power to protect U.S. forces was implicit in the Mansfield amendment, the approval of the second Byrd amendment was appropriate to state the power explicable. It is a part of the Mansfield amendment. It cannot affect our sections 1, 2, 3, and 4, which depend upon the denial of funds for the operations we have described in sections 1, 2, 3, and 4.

So I do not accept the statement made by the distinguished chairman of the Committee on Foreign Relations (Mr. FULBRIGHT) and his interpretation of the language of the Senator Byrd amendment, which has no operative effect on the Cooper-Church amendment. There was not time enough to respond to his statement that day.

President Nixon, as he came into office, inherited a war, and there inured to him all the powers of the Commander in Chief, whatever they are. We have generally agreed in this debate that they are defensive in nature. They could not incude the authority to make a new war in Cambodia in support of Cambodia. That is our position. I would be very much surprised if Senators would argue that the power to protect our forces would include the authority to make a new war in Cambodia, for Cambodia, without the consent of the Congress. I think the position taken by the New York Times in its editorial this morning is correct. President Johnson could not wage war in South Vietnam simply because of the SEATO Treaty. That treaty could only become operative article IV, through the constitutional processes of the United States. It is my view, and I expressed it in the 2 days of debate on the Tonkin Gulf resolution when it was adopted, that the resolution we acted under article IV of the treaty to give President Johnson wide powers. Now that the resolution is on the way out, whether by the amendment offered by the Senator from Kansas (Mr. DOLE) or, later, by approval of the Mathias resolution from the Committee on Foreign Relations, I think it is clear that the President's powers are defensive in nature, and applicable to his plan of withdrawing our forces.

So I have no objection to the amendment submitted by the distinguished Senator from New York (Senator JAVITS), because it states congressional constitutional authority. Also, as he has said, "It will serve to remove doubts." The Senator is thoughtful and helpful.

Senator BYRD has stated that he did not interpret the language of his second amendment in such a way as approving engagement in a war for Cambodia or in a new commitment for war in South Vietnam.

Mr. JAVITS. Mr. President, I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I should like, first of all, to commend the distinguished Senator from New York for this balance, this clarification, which I feel is needed in the Cooper-Church amendment. I should like to ask the Senator, however, this question: We are dealing now with a declaration of war. To declare war is simply to proclaim, to say aloud, to make known what we are doing. But that does not necessarily mean that we are dealing with the power to make war. We live in a world where there is no declaration of war any more. I will be satisfied that it is the intention of the distinguished Senator to recommend that we do proceed with the process of debate which has been described by the majority leader.

The PRESIDING OFFICER. The hour of 12 o'clock having arrived——

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, notwithstanding that the morning hour has expired, that the period for the transaction of routine morning business may be extended for a while, with statements therein limited to 3 minutes, after which the unfinished business will be immediately laid down.

The PRESIDING OFFICER (Mr. BYRD of Virginia). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The Senator from Illinois may proceed.

Mr. PERCY. Mr. President, we do not mean in any way by this amendment that we are detracting from the discussion that should take place on S. 409 which I have introduced, and the amendment offered by the distinguished Senator from New York, on the warmaking powers, where we are not talking about a declaration of war which we apparently do not do as nations any more, but where we make war because, after all, we were in a war in Korea under orders of President Truman for a long period of time. It was several months before we ever even knew. We certainly did not proclaim it. We did not know in this country that we were engaged in an armed conflict. There is a great deal of clarification of the Constitution and the practices now of nations to make war without declaring it. This is certainly not, as I interpret it, a substitute for that subsequent debate which should be carried on separately.

Mr. JAVITS. Certainly not. It is only asserted as a basis upon which that debate can take place substantively, not just academically, to research the power which we will try to define, by the fine initiative set by the Senator from Illinois, and by what I have tried to do along the same line in S. 3964.

Mr. MILLER. Mr. President, I thought that the Senator from Illinois was going to ask a question similar to the one I had in mind, but I must say that I would like to premise my question on the fact that I must insist that when the Constiution requires that Congress declare war, it means exactly what it says. I am not ready to suggest, certainly in the case of a limited war, that Congress should not carry out its constitutional power on that point.

The Senator from New York well knows that when he refers to the power of Congress to declare a war, there is no requirement that there be a formal declaration of war, that what is required is that Congress evidence its will.

My question is whether there is any intention to elaborate upon the meaning of a declaration of war by Congress during discussion on the legislative history of his amendment. Some well meaning citizens think that the Constitution requires a formal declaration of war which, of course, could trigger off all kinds of international law implications and which, I would guess, most Members of Congress would be very much opposed to; but, on the other hand, that does not mean there cannot be a de facto declaration of war which satisfies the Constitution but does not at the same time trigger off some of the international law implications which would be contrary to our national interest.

Mr. JAVITS. May I say to the Senator that I agree thoroughly with the fundamental thrust of his thinking. I am not so sure about a de facto declaration of war. I do not know that there is such a thing. But I agree with him in general terms. All I am trying to do here is to retain without prejudice a basis for further legislating, if we wish to. I am not seeking in any way to define, not even in the limited way the Byrd second amendment does concerning the President's Commander in Chief power, to define what are the powers of Congress. I feel that, as we did go ahead with some definition of the President's powers, we had better balance that off by saying it does not mean we are giving anything up so far as the war powers given to Congress in the Constitution are concerned.

Mr. MILLER. We should understand that any time an amendment like this is introduced, there are certain people who imply certain things from it and, unfortunately, sometimes the implications are contrary to the intention of the authors themselves.

The PRESIDING OFFICER (Mr. MCINTYRE). The time of the Senator from New York has expired.

Mr. JAVITS. Mr. President, in making this unanimous-consent request, I am indebted to other Senators who have indulged me; thus I only feel it proper that I ask unanimous consent to proceed for another 5 minutes and hope that the Senators concerned will help me. I will not say anything, if they will help me by curtailing their time.

Mr. President, I ask unanimous consent to proceed for another 5 minutes.

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

Mr. MILLER. If I may continue, I should like to have the distinguished Senator from New York affirm what I think is in his mind, that he does not

have any suggestion or implication in the amendment that there must be a formal declaration of war by Congress——

Mr. JAVITS. That is correct.

Mr. MILLER. To satisfy the Constitution——

Mr. JAVITS. That is correct. But Congress can, and I believe that we will, find other ways and means by which Congress can act. But I think that all these ways will be premised upon the power of Congress as stated in the Constitution.

Mr. MILLER. May I add this, that the Senator from Iowa has stated many times the Gulf of Tonkin resolution was, for all practical purposes, a declaration of war, especially when we take into account the legislative history made here on the floor of the Senate in the colloquy between the distinguished Senator from Kentucky and the chairman of the Foreign Relations Committee.

When the Senator from Kentucky, in going through the resolution, said, "Do I understand that the powers authorized by this resolution could lead to a war?" the answer by the Senator from Arkansas was: "That is the way I interpret it."

Now, with that legislative history and the recitals in the Gulf of Tonkin resolution, it seems to me that the constitutional requirements were satisfied. I am afraid, however, that some people think we have to have a formal declaration of war, which I personally have always opposed, because of the international law implications. I appreciate the Senator stating that there is nothing in the offer of his amendment, or in the amendment itself, which implies there should be a formal declaration of war to satisfy the constitutional requirement.

Mr. JAVITS. I do not believe that Congress need have a formal declaration of war every time it lends itself to war.

Mr. SPONG. First, Mr. President, I want to commend the distinguished Senator from New York for introducing this language. I concur with the interpretation by the Senator from Kentucky of the second Byrd amendment. I should like to say to the Senator from New York that while the introduction of his amendment is prompted by the adoption of the second Byrd amendment, its balancing factor relates to the Mansfield amendment as modified by the second Byrd amendment. Is that correct?

Mr. JAVITS. I think it would balance both, but I would not wish to exclude either.

Mr. SPONG. As to the questions posed by the distinguished Senator from Iowa, the Senator from New York seeks to grant no new power to anyone?

Mr. JAVITS. That is correct.

Mr. SPONG. But merely to state what all of us recognize the constitutional prerogatives presently to be, before further definition?

Mr. JAVITS. That is correct. Nothing already defined precludes us from defining our policy.

Mr. GURNEY. Mr. President, this amendment is offered in the whole context of the discussion we have had here in the Senate during the past 5 or 6 weeks on the Cooper-Church amendment, the Byrd amendments and the Mansfield amendment, all of which relate to Southeast Asia on widening or contracting the war, the powers of the President as Commander in Chief, and the role of Congress.

The questions asked the sponsor of the amendment so far have been directed to the powers of Congress to declare war.

Mr. question is this: The other part of the amendment states:

> Nothing contained in this section shall be deemed to impugn the Constitutional powers of the Congress including the power to declare war and to make rules for the government and regulation of the Armed Forces of the United States

Now, as I say, this amendment in the context of the war in Southeast Asia. May I ask the Senator from New York what does he mean by this language—

> Nothing contained in this section shall be deemed to impugn the Constitutional powers of the Congress including the power to declare war and to make rules for the government and regulation of the Armed Forces of the United States.

Insofar as this debate and the war in Southeast Asia is concerned?

Mr. JAVITS. I can explain that, I hope quickly. In the first place, my amendment closely parallels the the Mansfield-Byrd language. More pertinently, it closely paraphrases the Constitution. That is what the Constitution says.

The Senator from West Virginia's amendment says that the President, as Commander in Chief, can react when the troops are endangered, wherever deployed. I agree. But there is a point at which that power ceases or, at least, the power of Congress comes into dominant play. I am not trying to define that point now. I am preserving our right to do it under the Constitution. That is all.

The PRESIDING OFFICER (Mr. McINTYRE). The Senator's time has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator be permitted to continue for an additional 3 minutes.

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

Mr. GURNEY. Mr. President, if I may proceed a bit further, in all honesty and fairness I do not see that the Senator has answered my question as to what he means by injecting the language, "rules for the government and regulation of the Armed Forces of the United States." I can understand that first part of it. That is simple enough.

Mr. JAVITS. Mr. President, I can answer the question by saying that I think the Vietnam war is sui juris, once we have cleared the books of the Tonkin Gulf resolution. Once we have done that, the President has such powers and only such powers as the Constitution gives him.

I believe that we can curtail the powers of the President in Vietnam by the power of the purse, the power to declare war and make rules for the Government and regulation of the Armed Forces. I think that we have those constitutional powers. However, the Cooper-Church amendment does not try to do that. It uses only the power of the purse. The so-called McGovern amendment does not do that. But I believe we do continue to have the war powers reserved to Congress in article I, section 8, of the Constitution, as well, and that we can, and must, learn to use those powers in the contemporary context.

Mr. GURNEY. Mr. President, I certainly agree with the Senator as far as the power of the purse is concerned. No one disputes that. But is the Senator saying that under the language, "make rules for the Government and regulation of the Armed Forces of the United States" that we as a Senate could make tactical decisions to say that the President should make this move or that move and not make this move or that move in the conduct of the war in Southeast Asia?

Mr. JAVITS. Mr. President, I am not prepared to say that we cannot make "tactical" decisions. I am not saying that Congress should. It depends on what we may decide to do to make rules for the Government and regulation of the Armed Forces. For example, in the Selective Service Act of 1940, we forbade the President from deploying draftees outside the Western Hemisphere.

That was considered to be an exercise of the power to make rules for the Government and regulation of the Armed Forces. There are other examples, such as the Neutrality Act restrictions. I do not want to preclude Congress from exercising any of its powers. I will not give away anything in deference to the word "tactical."

I do want to yield to the Senator from West Virginia. The Senator from Michigan has been very patient.

What the Senator from Florida says bears out what I said when I began. I hope that Senators will read this and think it over very carefully. I am not for driving now for passage. We should think it over and discuss it.

I am more than willing to do that. However, I have made my purpose very clear.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. McINTYRE). The Senator from West Virginia is recognized.

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

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

Mr. BYRD of West Virginia. Mr. President, I do not see any need for any large scale or extended debate on this amendment. It was for that reason that I sought to confine the discussion of the amendment to the period for transaction of routine morning business, so that we would retain control over the time under the 3-minute limitation.

Let me emphasize the statement made by the able Senator from Kentucky (Mr. COOPER). There should be no room for interpretation of the Byrd amendment to the effect that it would allow the President—in the name of acting to protect American troops in an emergency—

to enter into any new commitment or to enter into any new war.

That was all clearly set forth in the legislative history preceding the vote on that amendment.

I do not see any need to plow that ground again.

The Senator from Idaho (Mr. CHURCH) is correct in his statement that the Cooper-Church language says that no funds shall be expended, et cetera, et cetera.

I must hasten to state, however, that the Senate and the House of Representatives can act 2 weeks subsequent to the passage of this act, if it is enacted into law, and appropriate money. And that subsequent act will take precedence over this act.

We cannot in this act foreclose Congress 2 weeks later, or a month later, or a year later from making appropriations for the funding of any exigency that might arise subsequent to the passage of this act.

I shall now refer to the language in the amendment offered by the senior Senator from New York:

Nothing contained in this section—

Meaning section 47 of the Foreign Military Sales Act—

shall be deemed to impugn the constitutional powers of the Congress.

Who can quarrel with that? What are those constitutional powers of the Congress? They are set forth in paragraphs 11, 12, 13, 14, 15, 16, and 18 of section 8 of article I of the Constitution.

The warmaking powers of the President are set forth in paragraph 1, section 2 of article II of the Constitution.

The amendment that was offered by me, the Senator from Michigan (Mr. GRIFFIN), the Senator from Virginia (Mr. SPONG), and other sponsors dealt with the war powers of the President. This amendment—offered by Mr. JAVITS—deals with the war powers of the Congress, and when his amendment says, "constitutional powers of the Congress including the power to declare war and to make rules for the Government and regulation of the Armed Forces of the United States," it embraces all of the war powers of the Congress as set forth in the paragraphs which I have already enumerated.

In one of those paragraphs, the Founding Fathers made reference to the powers of the Congress to declare war; in another, to raise and support armies; in another, to provide and maintain a Navy; and in another, to make rules for the Government and regulation of the land and naval forces.

So, the Javits amendment is all-inclusive of the war powers of the Congress under the Constitution, and he explicitly emphasizes two of those powers. However, in emphasizing two of those powers, he does not exclude the other powers as set forth in section 8. He explicitly mentions the power to declare war and the power to make rules for the Government and regulation of the Armed Forces of the United States.

Nothing we can do in the Senate by statute would amend the Constitution. The Senator is simply stating that the constitutional war powers of the Congress shall remain what they are now and what they have been for almost 200 years.

He is speaking of the war powers of Congress, and he states that they shall remain what they are.

They are set forth in paragraphs 11, 12, 13, 14, 15, 16, and 18. From among those he singles out these two.

Mr. President, I see nothing in the amendment that I would be opposed to.

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

Mr. BYRD of West Virginia. Mr. President, I would be very glad to yield to the distinguished cosponsor of the Byrd amendment.

The PRESIDING OFFICER (Mr. MCINTYRE). The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent for 2 additional minutes.

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

Mr. GRIFFIN. Mr. President, I speak only for the purpose of indicating my agreement with the analysis and the statement of the distinguished Senator from West Virginia.

If we were to vote against the amendment, as I read it, we would be voting against the Constitution of the United States.

Mr. BYRD of West Virginia. Exactly.

Mr. GRIFFIN. The amendment uses the exact words of the Constitution and merely declares and reaffirms what the powers of the Congress are in the words of the Constitution. So, I would think it would be something that we would not have to spend very much time on. We could very quickly agree to the amendment

Mr. BYRD of West Virginia. Mr. President, as far as I am concerned I am ready to vote on the amendment.

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

Mr. BYRD of West Virginia. I yield.

Mr. DOLE. Mr. President, I wish to associate myself with the remarks just made by the Senator from Michigan (Mr. GRIFFIN), and earlier by the Senator from New York (Mr. JAVITS), the Senator from West Virginia, and others.

We have had much discussion here about the rights and powers of the President in the last 4 or 5 weeks during this debate. Many of us have made clear that we cannot change those rights and powers by legislative action, nor can we change the rights and powers which Congress retains or has under the Constitution.

I certainly support the efforts of the senior Senator from New York, as outlined by him, and as just stated by the Senator from West Virginia. I see no reason why we cannot adopt the amendment without further debate.

Mr. MILLER. Mr. President, I think we should make clear that nobody is going to argue about affirmation of the Constitution in this body. I think we overlook the fact that many people who are not Members of this body are concerned about our interpretation of that Constitution, and the President's interpretation of the Constitution. They are concerned about the specific applications, not the glittering generalities which no one can vote against or be against.

That is why I pointed out in my colloquy with the Senator from New York that some people are "hung up" over the constitutional power of Congress to declare war, and where they get this "hang up" I do not know, but some of them think that means a formal declaration of war right out here on the floor of the Senate, and it does not mean that at all. It means evidencing a will on the part of Congress that the country enter a war, but I think it would be most unfortunate if anybody would draw from favorable reaction on this amendment the implication that the Senator from New York says is not there at all—that there be a formal declaration of war by Congress, because if that was the constitutional requirement it would be contrary to our national interest, and I think every Member believes it would be contrary to our national interest to have a formal declaration of war because of the international law implications.

Mr. MANSFIELD. Mr. President, I have listened to this debate with interest. It appears that what the Javits proposal seeks to do is to state in regard to Congress what the Mansfield amendment stated with regard to the Presidency. I think it is a good amendment. I think it is a good way to express our views. Too many of us strain at gnats, trying to find things in a simple resolution which are not there. That practice has been quite prevalent in the last 6 weeks. I think that we are raising questions which indicate an inherent insecurity or a lack of concern with the constitutional rights of the Senate.

I stress that it is under the Constitution that the President operates, and it is under the Constitution that the Senate and Congress operate.

I am one of those who is not willing to forgo a congressional declaration of war. I am one of those who did not look upon the Gulf of Tonkin resolution as a declaration of war. I want my position understood because there are certain responsibilities and rights which reside in the Congress and which I never want to see this Senate or the Congress abandon. I think the Congress is as important in its way under the Constitution as are the Presidency and the judiciary. I hope all of us would keep these considerations in mind because they are fundamental.

We are one of the foundations on which this Republic stands. If you start crumbling this foundation, it will not be long before the other two branches will go and the Republic will collapse.

Mr. President, I ask unanimous consent that I be added as a cosponsor of the amendment of the Senator from New York (Mr. JAVITS).

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

Mr. JAVITS. Mr. President, I wish to express to the distinguished majority leader my gratification for what he has

just said. It is a refreshing thing for the country and I hope all of our people, especially the young, will hear and take to heart what the distinguished majority leader has said.

Mr. MANSFIELD. Mr. President, would the Senator from New York consider the possibility of calling up his amendment when we conclude the morning hour under the time limitation?

Mr. JAVITS. I certainly would. I would like to fix a time early in the afternoon.

Mr. MANSFIELD. It has been discussed. We could pass on it in 10 or 20 minutes.

The PRESIDING OFFICER. The Senate already has a pending amendment, the amendment of the Senator from Colorado (Mr. ALLOTT).

Mr. MANSFIELD. I would ask unanimous consent if an agreement could be reached because the pending amendment will be voted on at a time certain on Monday.

The PRESIDING OFFICER. Is there further morning business?

AMERICAN PRISONERS OF WAR

Mr. DOLE. Mr. President, in this morning's New York Times there was published an article entitled, "Hanoi Said To Confirm List Putting Prisoners at 334." The article indicates that North Vietnam has reportedly declared that a list of 334 American prisoners, compiled by a peace group in New York, is a complete list of all prisoners held in North Vietnam and has insisted that it does not hold any men that are not on the list.

Information on Hanoi's position has come from a delegation of 3 Americans who have just visited Hanoi. The list was compiled by the Committee of Liaison With Families of Servicemen Detained in North Vietnam.

Mr. President, I wish to state that this is an incomplete list, this is an unofficial list, and it does not cover Laos or Cambodia.

It appears that this might be an effort by Hanoi to dim the hopes and prayers of hundreds of mothers, fathers, children, and wives of servicemen who are held prisoners in Southeast Asia, because I believe hundreds of names were omitted.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD a memorandum issued this morning by the Department of Defense with reference to the news article and with reference to official actions and statements of Secretary of Defense Melvin Laird and others in the Department of Defense.

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

MEMORANDUM FOR CORRESPONDENTS

We have been asked for comment on news stories concerning names of prisoners of war in North Vietnam. The following statement was made today by Daniel Z. Henkin, Assistant Secretary of Defense for Public Affairs, on behalf of the Department of Defense:

"The purported list of prisoners of war held in North Vietnam released unofficially in recent days by a group of private individuals, some of whom have been invited to visit Hanoi, is incomplete and unacceptable. This list, for example, does not include the names of at least 40 men whom we carry as being 'captured.' Our official designation has been made on the basis of information previously received, including men shown in propaganda newsreel films, and photographs released by Hanoi, radio broadcasts, identification by the nine men who have been released, and from other sources.

"Also, it should be noted, this privately compiled and unofficially released list makes no reference to our men held prisoner by Hanoi and its agents in South Vietnam, Laos, and Cambodia.

"On behalf of the Secretary of Defense Melvin R. Laird, I want to state that the Department of Defense will press unrelentingly for full adherence by Hanoi to the provisions of the Geneva Convention. What we want from the enemy is a complete and official identification of all men who are prisoners, including civilian newsmen, and a full accounting of all military and civilians who are missing.

"The Geneva Convention, to which Hanoi is a signatory, requires the prompt official identification of all men who are held prisoners. It also provides for impartial inspection of prisoner of war camps, a regular flow of mail, and the repatriation of sick and wounded.

"The unofficial release of an inaccurate and incomplete list of names from unofficial sources can only add to the great anguish of the hundreds of wives, children and parents of the more than 1500 servicemen who are listed as missing or captured."

ADDITIONAL STATEMENTS OF SENATORS

A TRIBUTE TO SENATOR MANSFIELD

Mr. METCALF. Mr. President, among the most interested of the audience in the Senate gallery yesterday when tributes were paid to Senator MANSFIELD for his tenure as majority leader longer than any man in history, were a group of more than 30 4–H boys and girls from Montana and their escorts. Certainly they were the proudest of the listeners. When they left the gallery, Patricia Sias, one of the group, left me the following message for my valued and beloved colleague from Montana. I am pleased to share it with my colleagues. She asked me to tell Senator MANSFIELD on behalf of the group:

We wish to convey our most sincere best wishes and we look with pride at the honor being bestowed on our Montanan. We sincerely wish you many more years as Senate Majority Leader. Montana 4–H Delegation.

My own comment is that if the rest of the States do as well as Montana in the forthcoming November elections there will be a Democratic majority for MIKE to lead and MIKE will be there, too.

CONGRESSMAN JOHN MELCHER KNOWS WHEREOF HE SPEAKS

Mr. MANSFIELD. Mr. President, my distinguished colleague, friend and associate, Congressman JOHN MELCHER of Montana was the subject of a commentary by Joseph McCaffrey of ABC. JOHN MELCHER points up a very pertinent issue, Joe McCaffrey explains it very well, and I approve of it thoroughly.

I ask unanimous consent that Joe McCaffrey's commentary be placed at this point in the RECORD.

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

COMMENTARY OF JOSEPH MCCAFFREY, JUNE 20, 1970

Not enough attention was paid to a speech given several weeks ago by Congressman John Melcher of Montana. The Congressman happens to be the only veterinarian in the Congress.

He was talking about United States inspection of meat which is imported into this country. He called the inspection "an inadequate sort of random-selection roulette" which is conducted by a too small staff of inspectors on an inadequately small sample of the meat coming from abroad. Imported meat inspection, said Mr. Melcher, "falls a thousand miles short of the high, stringent inspection which United States meat must pass."

The Congressman said that imported meat standards accept one minor defect in every thirty pounds of meat, one major defect in four hundred pounds, and one critical defect in each three thousand pounds.

The defects range from harmless extraneous matter to blood clots, insects, stomach contents, and manure.

And the Congressman asked his fellow House members, "How do you like that in your hamburger?"

What's the problem? Well, mainly the federal government has only fifteen veterinarians abroad checking more than one thousand one hundred plants authorized to ship meat to this country compared to more than six thousand full-time inspectors or veterinarians checking eleven hundred and four meat and poultry slaughter and processing plants here in this country.

Says Melcher, "Rather than pushing for more imports, we had better get adequate inspection of what is already coming in."

THE CONFERENCE ON MATERIALS FOR IMPROVED FIRE SAFETY

Mr. ANDERSON. Mr. President, recently I received from Dr. Thomas O. Paine, Administrator of the National Aeronautics and Space Administration, a paper summarizing a conference on materials for improved fire safety that was held May 6–7 in Houston, Tex. The purpose of this conference was to pass on to commercial, Government, and professional organizations what NASA has learned about nonflammable materials. The interest in this conference was extraordinary—and no wonder—as NASA had some extraordinary things to pass along about fire safety.

One of the benefits of the space program is the technological or scientific fallout from the program. With regard to such fallout, we sometimes hear the question: If the same amount of money had been spent on specific investigations in safety, medicine, transportation, ecology, and so forth, would we not get even better results? I doubt that we would because there are so many specific problems in so many different disciplines that without a common goal the usual institutional arrangements do not focus effort. Consequently, the investigation of specific problems in specific disciplines do not generate the same kind of an interdisciplinary approach that is often used in the space program.

The Apollo program because of this interdisciplinary approach has pushed the technology of fire safety far ahead

and its effects will be felt in virtually every aspect of our lives: aircraft will be safer; firemen will have better protective clothing; and our homes will be more fireproof. One of the industries most interested in the development of nonflammable materials has been the airlines. At the conference in Houston, an airlines official is quoted as saying:

You have accomplished more in a few years than has been done over many years in the past.

This is what is meant by technological fallout.

Mr. President, I ask unanimous consent that the brief report which describes some of the direct benefits of our space program related to fire protection be printed in the RECORD.

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

CONFERENCE ON MATERIALS FOR IMPROVED FIRE SAFETY

After the Apollo fire early in 1967, NASA took a leading role in the development of materials for improved fire safety. Last month a conference was held in Houston, Texas, to pass on what we have learned to commercial, government, and professional organizations.

The interest in this conference was extraordinary. There were 587 attendees, representing 290 organizations. They spent two days listening to detailed technical discussions and observing practical demonstrations. Among those attending were representatives from: 7 federal agencies concerned with fire protection; 11 airlines; 59 aerospace companies; 15 insurance companies; 6 construction companies; 42 manufacturers of steel, electronic, glass, and paper products; 3 manufacturers of tires; 69 chemical manufacturers; 5 manufacturers of automobiles; 17 textile manufacturers; 9 small aircraft firms; 41 research companies; 16 universities; 11 international firms; and 5 oceanographic firms.

Examples of fire safety materials that were discussed and demonstrated include:

Fabrics that will not burn;

Paints that protect the surface beneath them;

Nonflammable electrical switches, circuit breakers, and wiring;

Spray coatings that prevent combustion on protected surfaces;

Noncombustible plastic foams used for insulation; and

Paper products that are nonflammable.

Commercial, household, and military applications of these new nonflammable materials were discussed, including clothing, bedding, carpeting, upholstry, and automobiles and aircraft furnishings and accessories.

The response to the conference has been overwhelming. Some representatives reactions were:

An airline official has stated: "You have accomplished more in a few years than has been done over many years in the past." NASA will assist this airline in the search for nonflammable substitutes or processes for aircraft interior materials, and will instruct airline personnel in the application of nonflammable coatings to aircraft interiors.

The Air Force has requested support for "adapting some of the flameproofing techniques used by the Apollo Program in operational USAF aircraft."

The International Association of Firefighters has asked for help in developing protective clothing for firemen. NASA is already developing an improved protective garment for the fire department at the Manned Spacecraft Center in Houston, Texas.

The National Association of Homebuilders is seeking applications to home construction.

The Department of Housing and Urban Development has requested further detailed information in their technology utilization program.

NASA has stopped procurement of Nomex flight coveralls for pilot and astronaut personnel in favor of coveralls made of Durette material, which has improved fire resistant qualities.

A manufacturer of wall paper is attempting to obtain American rights to a nonflammable paper developed for possible use in Apollo by a firm in the Federal Republic of Germany.

The Downtown Airpark of Oklahoma City is refurbishing an Aero Commander with a nonflammable material.

These are only a few examples of the requests for help we have received, and applications that are already underway. NASA will provide additional information and support to all who have a bona fide need for these direct benefits from our space program.

DEATH OF E. WASHINGTON RHODES, OF PENNSYLVANIA

Mr. SCOTT. Mr. President, yesterday, E. Washington Rhodes, the distinguished publisher of the Philadelphia Tribune, a leading attorney, and a distinguished Negro leader in Philadelphia died.

I knew Gene Rhodes for many years, and my association with him in Philadelphia had always been most rewarding. His columns for the Tribune reiterated the point again and again that violence was an impediment to racial justice, but Mr. Rhodes never let up on his fight for equal justice for all Americans. He emphasized job training and opportunities, and practiced what he preached.

Mr. President, I ask unanimous consent that this article from the Philadelphia Inquirer be printed in the RECORD. His leadership, his courage, and his dedication to the causes of the black minority will be greatly missed in Philadelphia and in the Nation.

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

E. WASHINGTON RHODES DIES; PUBLISHER, LAWYER, NEGRO LEADER

E. Washington Rhodes, publisher of the Philadelphia Tribune, attorney and Negro leader, died Wednesday in Mercy-Douglass Hosptial. He was 74 and lived at 1708 Addison St.

A graduate of Lincoln University in Chester County and a graduate of Temple University Law School, he became editor of the Tribune in 1926. He was also a former U.S. attorney.

BAR PRESIDENT

Mr. Rhodes has been president of the National Bar Association, a member of State Legislature and a member of the Philadelphia Board of Law Examiners. He was among the organizers of Philadelphia Citizens Committee Against Juvenile Delinquencies and Their Causes.

In 1941 Mr. Rhodes took on the additional duties of publisher of the Philadelphia Tribune. In 1947 he founded Philadelphia Tribune Charities, Inc., which he served as treasurer.

IMMEDIATE AID

At that time, he explained that Tribune Charities didn't take the place of any welfare or social agency. Its primary purpose, he said, was to provide immediate assistance to those in dire need.

Born in Camden, S.C., Mr. Rhodes had always dreamed of becoming a lawyer. He often spoke of how his town had no high school for Negroes.

The nearest school was 32 miles away in Columbia, the state capital. So determined, he went there and enrolled in a college preparatory course.

CIRCULATION JUMPED

After he became publisher of the Philadelphia Tribune, a predominantly black biweekly, published Tuesday and Friday, the circulation rose to more than 100,000. Shortly before his death, he was planning to print the paper three times a week.

Mr. Rhodes did not believe in preaching a philosophy he did not practice. He integrated his news staff. He once said: "If I'm going to discriminate, how can I protest discrimination?"

He and the columns of the Tribune reflect the view that blacks must fight for equal justice as American citizens. He regarded violence as an impediment to racial improvement and equality.

JOB TRAINING

The importance of job training, activities of the Opportunities Industrialization Center, hiring, training and advancement programs of industry, were subjects he emphasized.

Besides his wife, the former Jeanne Simmons, he is survived by a sister, Mrs. Mamie Campbell of Florida.

VIETNAM DOES NOT AFFECT AMERICAN SECURITY

Mr. CHURCH. Mr. President, it was recently my pleasure to read a letter to the editor of the Lewiston Morning Tribune, one of Idaho's finest daily newspapers, written by Mr. Vernon Morton of Lewiston, concerning American involvement in Southeast Asia.

In the letter, Mr. Morton very accurately and succinctly points out that:

With 7,000 miles of ocean separating the Communists in Asia from the U.S., it does take some stretch of the imagination to consider them a direct threat to the security of the U.S., especially while we tolerate a Communist armed camp only 90 miles from our shores in Cuba.

The other major point that Mr. Morton makes is the futility of trying to fight a ground war in Asia with Communist China at the backdoor. His insight is particularly valuable in light of American intrusions into Cambodia to destroy Communist sanctuaries.

Mr. Morton writes:

The Communists have the ultimate sanctuary of China itself if the U.S. should choose to chase them that far. Up to this point, the government of North Vietnam has been very hesitant to invite millions of Chinese to come through their country to fight in the South, for she knows when the Russians liberated Czechoslovakia, Poland, and Hungary from the Germans, they just stayed there and China might get the same idea. However, should the U.S. get too victorious they could predictably change their minds.

Mr. President, I commend Mr. Morton's letter to Senators and ask unanimous consent that it be printed at this point in the RECORD.

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

A GENERAL'S WARNING

Could the U.S. ever really hope to win a ground war in Asia? General MacArthur, one of the outstanding military strategists of our time, stated the U.S. should never get involved in a ground war in Asia.

It is hard for this man to draw a parallel between containing communism in Korea

and in Indochina. The Korean war was fought on a 110-mile front, in a land of flat plains and barren mountains where the terrain was quite suitable for modern warfare. Opposing China was the U.S. and several other nations belonging to the U.N.

In contrast, the U.S. is fighting the Asian war nearly on its own, where the war front could extend to more than 700 miles with great portions of this being swamps and jungles. Thailand, Laos, North and South Vietnam and Cambodia are clustered together on a peninsula with a land mass probably 15 times greater than South Korea.

Secret documents captured from the Viet Cong revealed Red China has urged them to keep the U.S. bogged down in hit-and-run jungle warfare until such time as they have an adequate stock of hydrogen bombs. China has offered millions of volunteers to join North Vietnam in the war should they be asked for. China reasons that with her unlimited hordes of manpower, nothing could stop them from pushing the U.S. out of Asia, except should the U.S. resort to the use of nuclear weapons. China is now stockpiling nuclear bombs and delivery systems as a deterrent to the U.S. ever being able to resort to them in Asia.

The Communists have the ultimate sanctuary of China itself if the U.S. should choose to chase them that far. Up to this point, the government of North Vietnam has been very hesitant to invite millions of Chinese to come through their country to fight in the South, for she knows when the Russians liberated Czechoslovakia, Poland and Hungary from the Germans, they just stayed there and China might get the same idea. However should the U.S. get too victorious they could predictably change their minds.

For several years, our government justified our presence in Asia for the purpose of containing communism, but in recent times, they seem ever more to justify our staying there because there is no way to unilaterally withdraw without losing face. If this is the last and only reason we are continuing to wage this seemingly endless war, then I offer the following as a way to save face: Declare that the practice of jailing and imprisoning political opponents in Saigon is undemocratic and intolerable to the U.S., and because our pleas to free them have been ignored repeatedly, we can no longer justify supporting their dictatorial regime.

Billions of dollars have been spent on the Vietnam war, and should the U.S. disengage itself tomorrow, a devastating effect on the U.S. economy would result; for hundreds of thousands of wage earners are employed by armament and war materiel manufacturers. In order to keep pouring the billions of dollars into our economy, something would have to be substituted to take the place of the war. At war's end, we could guarantee the millions of people now involved in the war effort jobs on badly needed national projects such as vastly improving the state highway programs, or streamlining our educational systems, or launching gigantic public construction projects.

And finally, with 7,000 miles of ocean separating the Communists in Asia from the U.S., it does take some stretch of the imagination to consider them a direct threat to the security of the U.S., especially while we tolerate a Communist armed camp only 90 miles from our shores in Cuba.

VERN MORTON.

LEWISTON, IDAHO.

UNDERSEA RESOURCES GIVEAWAY

Mr. HANSEN. Mr. President, I have previously commented here on a recommendation by President Nixon for a treaty under which we would renounce America's rights to seabed resources adjacent to our shores that are potentially the greatest source of energy remaining to our Nation.

As I stated shortly after the President announced the plan, I do not believe he was fully or adequately informed of the international implications, nor of the far-reaching effects of the proposed treaty, nor of the vital need of every possible source of energy we can develop for America's future needs.

Mr. President, this share-the-wealth plan advocated by the Department of State would, indeed, be a generous and noble gesture on our part. The free-trade advocates of the State Department have already made America the world's dumping ground for the surplus products of every nation in the world—developed and undeveloped. Many industries and most of agriculture are suffering the consequences of U.S. liberal trade policies resulting from the Trade Expansion Act of 1962. The U.S. balance-of-payments deficit has assumed alarming proportions as we continue to "bargain off" what little—if any—trade advantage we have left.

On the one hand, we have a State Department official telling a group of independent oil men recently that this country must not become dependent upon foreign oil and, on the other hand, another one recommending to the President that we should give away a good part of what may very well be the greatest source of oil and gas we have left—our Outer Continental Shelf.

Mr. President, a recent column published regularly by the Southern States Industrial Council, Sensing the News, expressed grave concern over what the author, Thurman Sensing, executive vice president of the council, termed the "Undersea Resources Giveaway." 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:

UNDERSEA RESOURCES GIVEAWAY

In recommending a treaty under the provisions of which the United States would renounce all rights to undersea resources beyond the depth of 200 meters (218.8 yards), the Nixon administration proposes the most colossal giveaway in the history of this country. It is hard to believe that President Nixon, in view of his strong national interest stand on many issues, has been fully advised of the implications and effects of the treaty proposed by his administration.

The sea floor pact statement released by the White House said the proposed treaty would call for establishment of "an international regime for exploitation of seabed resources" beyond the 200 meter depth. This international organization would "provide for the collection of substantial mineral royalties to be used for international community purposes, particularly economic assistance to developing countries."

What must be impressed upon the American people is that the proposed treaty would deny to the United States vast wealth to which it is entitled and which it is particularly well equipped to acquire.

The United States is the leader in ocean technology, especially ocean engineering. Hundreds of taxpaying, free enterprise companies in the U.S. have developed the equipment and the techniques for oil drilling and mining in the depths. Since 1946, more than 9,000 offshore wells have been drilled by companies. President Truman, in 1945, asserted American jurisdiction over the continental shelf, thereby assuring protection of a vital national asset.

But technology is moving at a rapid rate. The National Petroleum Council pointed out last year that within less than five years, technology will allow drilling and exploration in water depths of 1,500 feet (457 meters). Within 10 years, technical capabilities will allow drilling and oil producing in water depths of 4,000–6,000 feet (1,219–1,829 meters).

Given America's technological know-how and investment by American shareholders, this country should be able to develop a vast new source of wealth on the continental slope and adjacent ocean floor areas. These submerged lands, where there is "waiting wealth," are part of the North American continent. They just as much belong to the United States as the cold regions of Alaska. The American people are entitled to the wealth that lies off the coasts of the United States and that can be obtained by the know-how of U.S. free enterprise.

It would be tragic beyond words for this wealth to be turned over to an international regime for distribution to countries around the world, many of them incompetent to run their own affairs or antagonistic to the United States and its free society. It is hard to believe that the American people, considering their vital interests and real needs, want the country to propose or sign a treaty that would yield their assets to an agency of the United Nations or anything similar. Yet that is in the cards unless there is a strong grassroots protest.

The National Petroleum Council, in a definitive study of undersea resources, has said that "the continental shelf is the frontal edge of the submerged continent . . . it is the logical starting point for localizing the approximate outer limit of coastal-state jurisdiction." The Council said that the United States "should promptly and forthrightly assert (its) rights" over the continental slope and at least the landward portion of the continental rise. To do otherwise would be to deprive the American people of wealth to which they are entitled. The denial would be for all time.

It is dismaying and shocking that the administration failed to heed the words of the Council and instead has adopted a position virually identical with the resolution advanced by Malta in the United Nations.

The mini-states of the world—and many of the large but dependent countries—see in internationalization of seabed resources an opportunity for unlimited and enduring subsidization of their regimes. This subsidy would come "out of the hide" of the American people, for the U.S. is better equipped than any other nation to develop seabed resources.

In short, the establishment of an international regime for seabed resources would be a cruel and utterly unnecessary tax on the American people. The sea floor pact goes far beyond even the most extravagant foreign aid plan in envisioning permanent subsidies for backward lands—all at the cost of the USA. This proposed undersea giveaway would deprive the American people of tremendous benefits that would be derived from development of the seabed by taxpaying, free enterprise companies.

The sea floor pact represents a Louisiana Purchase in reverse—a loss of rich submerged lands that rightfully belong to the American people.

THE FIGHT AGAINST CRIME

Mr. SCOTT. Mr. President, I was delighted to announce yesterday that a total of $19,403,575 in Federal and State crime fighting funds will assist Pennsylvania and its local governments in improving and strengthening law enforcement and criminal justice.

A $10,591,000 Federal action grant was awarded to Pennsylvania in my Senate office. Present at the ceremony were: Pennsylvania's Attorney General, William C. Sennett; Charles Rinkevich, executive director, Pennsylvania Criminal Justice Planning Board; Richard Velde and Clarence M. Coster, Associate Administrators, Law Enforcement Assistance Administration, the Federal agency which administers Federal crime fighting programs under the Omnibus Safe Streets and Crime Control legislation. The $19,403,575 total consists of the $10,591,000 Federal share, $7,703,687 in State and local government matching funds, and $998,000 in Federal planning funds and $110,888 in State planning funds already allocated.

Pennsylvania's law enforcement and criminal justice improvement program is one of the finest in the Nation. These millions of Federal, State, and local dollars will greatly improve and strengthen law enforcement programs in Pennsylvania. I use the word law enforcement in its broadest sense, to include our courts and our prison systems as well as our police.

The Law Enforcement Assistance Administration has now approved Pennsylvania's "action plan," and these funds will be spent on action programs. Attorney General Sonnett and Executive Director Rinkevich deserve praise for doing an excellent job in preparing a plan for crime fighting action.

The Federal funds, with State and local matching funds, will be distributed throughout the State. Emphasis will be given to special crime problems faced by our urban population centers as well as the unique law enforcement problems confronted by our less populated areas. The Commonwealth's "action" plan emphasized the upgrading of police services as the number one priority for 1970.

This money will be used to combat organized crime, to improve our courts, correctional and rehabilitation systems, to deter juvenile delinquency and gang wars, to prevent riots and civil disorders, to improve police-community relations and to seek innovative methods for protecting citizens and apprehending criminals. Pennsylvania received the third highest total Federal funds, after New York and California. Today's official approval of the Pennsylvania action plan means that over $15,000,000 in Federal funds has been earmarked to fight crime in Pennsylvania since the safe streets legislation became law.

As a ranking member of the Senate Judiciary Subcommittee on Criminal Laws and Procedures, I helped to draft and guide through the Senate the safe streets legislation which authorized these funds. Pennsylvanians should be aware that this massive input of Federal funds, coupled with the comprehensive State and local planning which has gone on during the past months will do much to combat crime in Pennsylvania. We are announcing action funds today which will produce immense and favorable results for the citizens of Pennsylvania. Federal, State, and local governments have joined together in a mutual partnership to combat crime in our Commonwealth. I am most encouraged that every Federal, State, and local dollar will be well spent.

I ask unanimous consent that the following materials be printed in the RECORD:

First. A breakdown of 10 major action program categories included in the Pennsylvania plan and the amount of funds allocated for each program.

Second. A description of the eight Pennsylvania criminal justice regional planning areas and the amount of funds that will be allocated to each region.

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

I. Major action program categories

Improvement of detection and apprehension of criminals	$4,158,375
Upgrading law enforcement personnel	1,501,785
Improvement of prosecution, court activities and law reform	859,260
Increase in effectiveness of correction and rehabilitation	1,739,220
Reduction of organized crime	677,235
Prevention and control of riots and civil disorders	433,638
Prevention of crime	272,747
Prevention and control of juvenile delinquency	425,128
Improvement of community relations	185,612
Research and development (including evaluation)	338,000
Total	10,591,000

II. Pennsylvania criminal justice regional planning areas—Description and fund allocations

Total action funds (Federal)	$10,591,000
Funds to be passed on directly to local units of government	7,943,250

This $7,943,250 will be allocated as follows:

Region and counties	Federal action funds	Percentage of total
(I) Southeast: Bucks, Chester, Delaware, Montgomery	$1,112,058	14
(I–A) Philadelphia: Philadelphia	2,621,272	33
(II) Northeast: Berks, Bradford, Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Sullivan, Susquehanna, Tioga, Wayne, Wyoming	635,460	8
(III) South Central: Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry, York	397,162	5
(IV) Central: Bedford, Blair, Cambria, Centre, Clinton, Columbia, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Snyder, Somerset, Union	397,162	5
(V) Southwest: Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Washington, Westmoreland	397,162	5
(V–A) Allegheny: Allegheny	1,985,872	25
(VI) Northwest: Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Potter, Venango, Warren	397,162	5
Total	7,943,250	100

LIST OF AMERICAN PRISONERS OF NORTH VIETNAM

Mr. McGOVERN. Mr. President, a matter of continuing concern to all Americans is the plight of several hundred American prisoners held in North Vietnam. One of the reasons I have been urging support for the amendment to end the war is that I see no other way to secure the early release of these suffering American prisoners.

Today's New York Times carries a list of names by States of the American prisoners held in Vietnam, as reported by a New York-based peace group headed by Mrs. Cora Weiss. The government of Hanoi has verified the accuracy of this list, although our Department of Defense believes the list should include 376 names instead of 334 as reported by Mrs. Weiss.

For the convenience of Members of the Congress and other concerned citizens, I ask unanimous consent that the news article relative to the prisoner list and the list itself, as reported in the Times, be printed in the RECORD.

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

HANOI SAID TO CONFIRM LIST PUTTING PRISONERS AT 334

North Vietnam has reportedly declared that a list of 334 American prisoners, compiled by a peace group in New York, is a complete list of all prisoners held in North Vietnam and has insisted that it does not hold any men who are not on the list.

Information on Hanoi's position has come from a delegation of three Americans who have just visited Hanoi. The list was compiled by the Committee of Liaison With Families of Servicemen Detained in North Vietnam, a New York-based peace group headed by Mrs. Cora Weiss.

Hanoi's claim that it is holding only 334 American prisoners was disputed by spokesmen for the Defense Department and the Department of State. The Defense Department says, 376 Americans are prisoners of war in North Vietnam but has never published its list:

A Government official asked about the peace group's list, said:

"This in no way changes our own thinking, which is based on very clear information obtained over five years. We believe there are other men there. Some have been identified by the nine former prisoners who were released by Hanoi, some by press conferences and some by pictures."

The disclosure by Hanoi is considered significant because it is the first time that North Vietnamese officials have termed a list complete.

The men who visited Hanoi were Kenneth Kirkpatrick of the American Friends Service Committee in Seattle, Mark S. Patshne, professor of biology at Harvard University, and Egbert W. Pfeiffer, professor of zoology at the University of Montana. They traveled as private individuals.

According to the Pentagon, 790 men are officially listed as missing in North Vietnam, with a total of 1,525 missing in all of Southeast Asia. Five hundred men are believed to be missing in South Vietnam and 220 in Laos. The list of 334 includes only prisoners held in North Vietnam.

LIST BASED ON LETTERS

The list was compiled by the Committee of Liaison over a period of time from letters sent by prisoners to their families. The committee was established last December after an agreement between the North Vietnamese and its co-chairman, Mrs. Weiss, who lives in Riverdale, the Bronx, to facilitate communication between prisoners and their families.

Under the agreement all prisoners were to be allowed to write one letter on a six-line form every month and to receive one pack-

age every other month. Since then the committee has received 1,004 letters, which it has transmitted to the families.

The list, which includes the names of prisoners who wrote before December 1969, was delivered to Hanoi last April but the North Vietnamese did not indicate then that it was complete.

According to a spokesman for the three Americans who visited Hanoi, the prisoners are safe in North Vietnam and will be returned when the war is over.

The Americans were told that it is useless for the families of other men to go to Paris, Vientiane and elsewhere to inquire about them because North Vietnam holds only those on the list.

The North Vietnamese also said that they could not accept 476 letters of a total of 769 letters that the Americans carried to Hanoi on behalf of families of missing servicemen because the letters were addressed to men whose names did not appear on the list.

The letters were given to Professor Pfeiffer to carry back to the United States. It is believed to be the first time that the North Vienamese returned mail addressed to men it says it does not hold.

Government officials in Washington explained that the Pentagon regularly notified the families of any men it believed to be held captive. But they added that the Government would not publish its owns list because of concern for the welfare of other men who might be held prisoner.

NAMES OF 334 CAPTIVES ON LIST ACCEPTED BY HANOI

(NOTE.—Following, as provided by the Committee of Liaison With Families of Servicemen Detained in North Vietnam, is a list of 335 American prisoners, described by the North Vietnamese as complete data on all the Americans they hold.)

ALABAMA

McCuistion, Michael K., XXXX, Montgomery.
Ringsdorf, Herbert Benjamin, XXXX, Elba.
Terrell, Irby David, XXXX, Anniston.

ARIZONA

Berg, Kile Dag, XXXX, Glendale.
Bomar, Jack Williamson, XXXX, Mesa.
Carrigan, Larry Edward, XXXX, Scottsdale.
Crecca, Joseph Jr., XXXX, Phoenix.
Gutterson, Laird, XXXX, Tucson.
Madison, Thomas Mack, XXXX, Phoenix.
Moore, Dennis Anthony, XXXX, Scottsdale.
Pitchford, John Joseph Jr., XXXX, Scottsdale.
Shattuck, Lewis W., XXXX, Mesa.
Tomes, Jack H., XXXX, Chandler.
Tyler, Charles Robert, XXXX, Phoenix.
Vanloan, Jack Linwood, XXXX, Tucson.

ARKANSAS

Lamar, James Lasley, XXXX, Little Rock.

CALIFORNIA

Abbott, Wilfred Keese, XXXX, San Diego.
Alvarez, Everett Jr., XXXX, Santa Clara.
Andrews, Anthony Charles, XXXX, Chico.
Baldock, Frederick C. Jr., XXXX, Lemon Grove.
Barnett, Robert W., XXXX, Hawthorne.
Black, Cole, XXXX, San Diego.
Boyer, Terry Lee, XXXX, Visalia.
Brazelton, Michael Lee, XXXX, Long Beach.
Butler, Philip Neal, XXXX, La Jolla.
Butler, William Wallace, XXXX, San Rafael.
Chambers, Carl Dennis, XXXX, Yuba City.
Chauncy, Arvin Roy, XXXX, Lemoore.
Clower, Claude Douglas, XXXX, San Diego.
Collins, James Quincy, XXXX, Atherton.
Cronin, Michael Paul, XXXX, Berkeley.
Daniels, Verlyne Wayne, XXXX, Hayward.
Estes, Edward Dale, XXXX, Lemoore.
Fer, John, XXXX, San Pedro.
Flesher, Herbert Kelly, XXXX, Sacramento.
Ford, David Edward, XXXX, Sacramento.
Fowler, Henry Pope, XXXX, Palo Alto.
Gillespie, Charles R. Jr., XXXX, Miramar.
Haines, Collins H., XXXX, San Diego.
Hickerson, James Martin, XXXX, Lemoore.
Kopfman, Theodore Frank, XXXX, Lemoore.
Lasiter, Carl William, XXXX, San Diego.
Lewis, Earl Gardner Jr., XXXX, San Diego.
Lurie, Alan Pierce, XXXX, Apple Valley.
McGrath, John Michael, XXXX, San Diego.
McIwain, George P., XXXX, Montrose.
McKamey, John B., XXXX, Lemoore.
Martin, Edward Holmes, XXXX, Coronado.
Merritt, Raymond James, XXXX, Colton.
Miller, Edison Wainwright, XXXX, Santa Ana.
Mobley, Joseph Scott, XXXX, Manhattan Beach.
Moore, Ernest M. Jr., XXXX, Lemoore.
Mullen, Richard Dean, XXXX, LaJolla.
Nasmyth, John H., Jr., XXXX, South San Gabriel.
Osborne, Dale Harrison, XXXX, Hanford.
Pirie, James Glen, XXXX, Lemoore.
Propilet, Leo T., XXXX, Pala Atlo.
Pyle, Darrell Edwin, XXXX, Santa Ana.
Rehmann, David George, XXXX, Lancaster.
Rivers, Wendell Burke, XXXX, Oxnard.
Rollins, David John, XXXX, San Diego.
Russell, Kay, XXXX, San Diego.
Rutledge, Howard Elmer, XXXX, San Diego.
Schultz, Paul Henry, XXXX, San Diego.
Schweitzer, Robert James, XXXX, Lemoore.
Shankel, William L., XXXX, Jackson.
Shumaker, Robert Harper, XXXX, LaJolla.
Southwick, Charles Everett, XXXX, Cupertino.
Stackhouse, Charles David, XXXX, Lemoore.
Stavast, John Edward, XXXX, Claremont.
Stier, Theodore Gerhard, XXXX, San Diego.
Stirm, Robert Lewis, XXXX, Foster City.
Stockdale, James Bond, Coronado.
Stratton, Richard Allen, XXXX, Hanford.
Tarleton, Harry Jr., XXXX, Lemoore.
Thorton, Gary L., XXXX, Porterville.
Wideman, Robert Earl, XXXX, Westminster.
Woods, Brian Dunstan, XXXX, Lemoore.

COLORADO

Burroughs, William David, XXXX, Aurora.
Singleton, Jerry Allen, XXXX, Greeley.

CONNECTICUT

McCleary, Read Blaine, XXXX, Old Greenwich.

DELAWARE

Doremus, Robert Bartsch, XXXX, Wilmington.

FLORIDA

Browning, Ralph J., XXXX, Orlando.
Brunstrom, Alan L., XXXX, Miami.
Coffee, Gerald L., XXXX, Sanford.
Cordier, Kenneth Williams, XXXX, Tampa.
Crumpler, Carl Boyette, XXXX, Orange Park.
Dunn, John Howard, XXXX, Jacksonville.
Finlay, John Stewart 3d, XXXX, Satellite Beach.
Fisher, Kenneth, XXXX, Sebring.
Fuller, Robert Byron, XXXX, North Miami Beach.
Gaither, Ralph Ellis, XXXX, Miami.
Glenn, Danny E., XXXX, Jacksonville.
Gray, David Fletcher Jr., XXXX, Tampa.
Gruters, Guy Dennis, XXXX, Sarasota.
Guarino, Lawrence N., XXXX, Satellite, Beach.
Hall, Keith Norman, XXXX, Fort Walton Beach.
Hall, Thomas Renwick Jr., XXXX, Pensacola.
Hardman, William Morgan, XXXX, Center Hill.
Heilig, John, XXXX, North Miami Beach.
Hinckley, Robert Bruce, XXXX, Fort Walton Beach.
Hivner, James Otis, XXXX, Tampa.
Hutton, James Leo, XXXX, Lakeland.
James, Charles Negus Jr., XXXX, Sanford.
Keirn, Richard Paul, XXXX, Tampa.
Key, Wilson Denver, XXXX, Jacksonville.
Ligon, Vernon Peyton Jr., XXXX, Melbourne Beach.
McCain, John Sidney, XXXX, Orange Park.
Perkins, Glendon W., XXXX, Orlando.
Peterson, Douglas Brain, XXXX, Marianna.
Schoeffel, Peter Van, XXXX, Naples.
Simonet, Kenneth Adrian, XXXX, West Palm Beach.
Smith, Bradley E., XXXX, Eagle Lake.
Smith, Wayne Ogden, XXXX, Dunedin.
Sterling, Thomas James, XXXX, Fort Walton Beach.
Tangeman, Richard George, XXXX, Sanford.
Waddell, Dewey Wayne, XXXX, Fort Walton Beach.
Williams, Lewis Irving, XXXX, Tampa.
Young, James Faulds, XXXX, Hollywood.

GEORGIA

Ellis, Leon Francis Jr., XXXX, Hull.
Halyburton, Porter A., XXXX, Decatur.
Hyatt, Leo Gregory, XXXX, Albany.
Lane, Michael Christopher, XXXX, Atlanta.
Norrington, Giles Roderick, XXXX, Atbany.
Parrott, Thomas Vance, XXXX, Dalton.
Swindle, Orson G., XXXX, Camilla.

HAWAII

McKnight, George G., XXXX, Honolulu.

IDAHO

Chesley, Larry James, XXXX, Burley.
Waltman, Donald Glenn, XXXX, Kellogg.

ILLINOIS

Barrett, Thomas Joseph, XXXX, Lombard.
Borling, John L., XXXX, Chicago.
Frederick, John William Jr., XXXX, Tremont.
Norris, Thomas F., XXXX, Godfrey.
Sigler, Gary Richard, XXXX, Table Grove.

INDIANA

Brenneman, Richard, XXXX, Mishawake.
Buchanan, Hubert Elliott, XXXX, Austin.
Byrne, Roland Edward Jr., XXXX, Kokomo.
Kasler, James Helms, XXXX, Indianapolis.

IOWA

Burns, Michael Thomas, XXXX, Mount Pleasant.
Naughton, Robert John, XXXX, Sheldon.
Spencer, Larry Howard, XXXX, Earlham.

KANSAS

Boyd, Charles Graham, XXXX, Wichita.
Hornick, Ramon Anton, XXXX
Hubbard, Edward Lee, XXXX, Overland Park.
James, Gobel Dale, XXXX, Overland Park.
Johnson, Harold Eugent, XXXX, Overland Park.
Mastin, Ronald Lambert, XXXX, Overland Park.
Plumb, Joseph Charles Jr., XXXX, Overland Park.
Stutz, Leroy William, XXXX, Cummings.

KENTUCKY

Purcell, Robert Baldwin, [redacted], Louisville.
Smith, Dewey Lee, [redacted], Valley Station.

LOUISIANA

Barbay, Lawrence, [redacted], Baton Rouge.
Jones, Murphy Neal, [redacted], Baton Rouge.
Lockhart, Hayden James Jr., [redacted], Alexandria.
Seeber, Bruce Gibson, [redacted], West Monroe.

MAINE

Biss, Robert Irwin, [redacted], Bangor.
Carpenter, Allan Russell, [redacted], Sanford.
Gartley, Markham L., [redacted], Greenville.
Ingvalson, Rofer Dean, [redacted], Sanford.

MARYLAND

Bell, James Franklin, [redacted], LaVale.
Burer, Arthur William, [redacted], Rockville.
Stafford, Hugh Allen, [redacted], Cambridge.
Talley, Bernard Leo Jr., [redacted], Baltimore.

MASSACHUSETTS

Brown, Paul Gordon, [redacted], Newton.
Eastman, Leonard Corbett, [redacted], Bernardson.
Greene, Charles Edward, Jr., [redacted], Needham.
Lengyel, Lauren Robert, [redacted], West Peabody.
North, Kenneth Walter, [redacted], Wellfleet.
Purrington, Frederick Raymond, [redacted], North Dartmouth.
Sullivan, Timothy Bernard, [redacted], Springfield.

MICHIGAN

Abbott, Robert Archie, [redacted], Sawyer AFB.
Gideon, Willard Selleck, [redacted], Mount Clemens.
Neuens, Martin James, [redacted], Iron Mountain.
Iodell, Donald Eugene, [redacted], Mount Clemens.
Shanahan, Joseph Francis, [redacted], Grand Rapids.
Warner, James Howie, [redacted], Ypsilanti.

MINNESOTA

Bolstad, Richard Eugene, [redacted], Minneapolis.
Everson, David, [redacted], Coon Rapids.
Wheat, David Robert, [redacted], Duluth.
Winn, David Williams, [redacted], Minneapolis.

MISSISSIPPI

Bailey, James William, [redacted], Carthage.
Collins, Thomas Edward, 3d, [redacted], Jackson.
Harris, Carlyle Smith, [redacted], Tupelo.

MISSOURI

Brodak, John Warren, [redacted], Jennings.
Clark, John Walter, [redacted], Columbia.
Spoon, Donald Ray, [redacted], Pleasant Hill.
Woods, Robert Deane, [redacted], Garden City.

MONTANA

Knutson, Rodney Allen, [redacted], Billings.

NEBRASKA

Ratzlaff, Richard Raymond, [redacted], Stromsburg.

NEVADA

Dutton, Richard Allen, [redacted], North Las Vegas.
Smith, Richard Eugene, Jr., [redacted], Las Vegas.
Sullivan, Dwight Everett, [redacted], Las Vegas.
Waggoner, Robert F., [redacted], Reno.

NEW HAMPSHIRE

Temperly, Russell Edward, [redacted], Concord.

NEW JERSEY

Abbott, Joseph, Jr., [redacted], Alloway.
Coker, George Thomas, [redacted], Linden.
Dramesi, John Arthur, [redacted]
Ellis, Jeffrey Thomas, [redacted], Madison.
Forby, Willis Ellis, [redacted]
Jones, Robert Campbell, [redacted], Chatham.
Miller, Edwin Frank, Jr., [redacted], Oakland.
Milligan, Joseph Edward, [redacted], Ammandale.
Sima, Thomas William, [redacted], Riverton.
Venanzi, Gerald Santo, [redacted], Trenton.
Webb, Ronald John, [redacted].

NEW MEXICO

Hughes, James Lindberg, [redacted], Santa Fe.
Sumpter, Thomas Wrenne, Jr., [redacted], Holloman AFB.

NEW YORK

Brudno, Edward A., [redacted], Harrison.
Cormier, Arthur, [redacted], Bay Shore.
Donald, Myron L., [redacted], Ossining.
Goodermote, Wayne, [redacted], Berlin.
McDaniel, Norman Alexander, [redacted], New York City.
McManus, Kevin Joseph, [redacted], Brightwaters.
Mehl, James Patrick, [redacted], Hauppauge.
Pollack, Melvin, [redacted], Long Beach.
Rice, Charles Donald, [redacted], Setauket.
Suhoski, Charles P., [redacted], Jamesport.

NORTH CAROLINA

Ballard, Arthur T., Jr., [redacted], Lake Lure.
Bridger, Barry Burton, [redacted], Bladenboro.
Crayton, Rendar, [redacted], Charlotte.
Gaddis, Norman Carl, [redacted], Winston Salem.
Hatcher, David Burnett, [redacted], Mount Airy.
Hiteshew, James Edward, [redacted], Goldsboro.
McNish, Thomas Mitchell, [redacted], Franklin.
Marvel, Jerry Wendell, [redacted], Newport.
Robinson, William Andrew, [redacted], Robersonville.
Wells, Norman Louross, [redacted], Goldsboro.

NORTH DAKOTA

Topkelson, Loren Harvey, [redacted], Crosby.

OHIO

Baugh, William Joseph, [redacted], Piqua.
Campbell, Burton Wayne, [redacted], Amherst.
Chapman, Harlan Page, [redacted], Elyria.
Flynn, John Peter, [redacted]
Kari, Paul Anthony, [redacted], Spencer.
Mechenbier, Edward John, [redacted], Dayton.
Mow, Thomas Nelson, [redacted], Columbus.
Nix, Cowan Glenn, [redacted], Warrensville Heights.

OKLAHOMA

Franke, Fred A. W., Jr., [redacted], Midwest City.
Kramer, Galand D., [redacted], Tulsa.
Monlux, Harold DeLoss, [redacted], Tulsa.
Pyle, Thomas Shaw 2d, [redacted], Cordell.
Risner, Robinson, 26905, Oklahoma City.
Walker, Herbert Clifford, Jr., [redacted], Tulsa.

OREGON

Sehorn, James Eldon, [redacted], Forest Grove.

PENNSYLVANIA

Alcorn, Wendell Reed, [redacted], Kittanning.
Anderson, Gareth Laverne, [redacted], Kane.
Black, Arthur Neill, [redacted], Bethlehem.
Burns, John Douglass, [redacted], Paoli.
Carey, David Jay, [redacted], Jeanette.
Davies, John Owen, [redacted], Reading.
Davis, Edward Anthony, [redacted], Leola.
Driscoll, Jerry Donald, [redacted], Canton.
Duart, David Henry, [redacted], Canon.
Myers, Glenn Leo, [redacted], Pittsburgh.
Reynolds, Jon A., [redacted], Bala-Cynwyd.
Ruhling, Mark John, [redacted]
Sawhill, Robert Ralston Jr., [redacted], Carnegie.
Trautman, Konrad W., [redacted], Steelton.

SOUTH CAROLINA

Austin, William Renwick 2d, [redacted], Simpson Viele.
Bagley, Bobby Ray, [redacted], Sumter.
Fant, Robert St. Cair Jr., [redacted], Anderson.
Hoffson, Arthur Thomas, [redacted]
Means, William Harley Jr., [redacted], Sumter.
Morgan, Herschel Scott, [redacted], Sumter.
Runyan, Albert Edwards, [redacted], Sumter.

SOUTH DAKOTA

Friese, Laurence Victor, [redacted], Huron.
Lebert, Ronald Merle, [redacted]
Thorsness, Leo Keith, [redacted], Sioux Falls.

TENNESSEE

Lawrence, William Porter, [redacted], Nashville.
Peel, Robert D., [redacted], Paris.
Tanner, Charles Nels, [redacted], Covington.
Vohden, Raymond Arthur, [redacted], Memphis.

TEXAS

Baker, Elmo Cinnard, [redacted], San Antonio.
Blevins, John Charles, [redacted], San Antonio.
Bliss, Ronald Glenn, [redacted], Temple.
Burns, Donald Ray, [redacted], Mineral Wells.
Clements, James Arlen, [redacted], Queen City.
Copeland, H. C., [redacted], Austin.
Curtis, Thomas Jerry, [redacted], Houston.
Daigle, Glenn H., [redacted], Corpus Christi.
Daughtrey, Robert Nolan, [redacted], Del Rio.
Hall, George Robert, [redacted], Waco.
Jayroe, Julius Skinner, [redacted], San Antonio.
Jeffrey, Robert Duncan, [redacted], Dallas.
Johnson, Samuel Robert, [redacted], Plano.
Larson, Gordon Albert, [redacted], San Antonio.
Lilly, Warren Robert, [redacted], Dallas.
Makowski, Louis Frank, [redacted], Midland.
Meyer, Alton Benno, [redacted], College Station.
Myers, Armand Jesse, [redacted], Universal City.
Ray, James Edwin, [redacted], Conroe.
Sandvick, Robert James, [redacted], Farwell.
Storey, Thomas Gordon, [redacted], Austin.
Terry, Ross Randle, [redacted], Lake Jackson.
Uyeyama, Terry Jun, [redacted], Austin.
Wendell, John Henry Jr., [redacted], Houston.
Wilson, Glenn Hubert, [redacted], Universal City.

UTAH

Hess, Jay Criddle, [redacted], Bountiful.
Jensen, Jay Roger, [redacted], Layton.
Luna, Jose David, [redacted], Roy.

VERMONT

Stockman, Hervey Studdie, [redacted], Manchester.

VIRGINIA

Bean, James E., [redacted], Arlington.
Berger, James Robert, [redacted], Lexington.
Brady, Allen Colby, [redacted], Virginia Beach.
Cherry, Fred Vann, [redacted], Suffolk.
Christian, Michael Durham, [redacted], Virginia Beach.
Coskey, Kenneth Leon, [redacted], Virginia Beach.
Crow, Frederick Austin, Jr., [redacted], Hampton.
Denton, Jeremiah A. Jr., [redacted], Virginia Beach.
Doss, Dale Walter, [redacted]
Fleenor, Kenneth R., [redacted], Hampton.
Galanti, Paul Edward, [redacted], Richmond.
Hill, Howard, [redacted], Alexandria.

McDaniel, Eugene M., [redacted] Virginia Beach.
Mulligan, James Alfred, [redacted] Virginia Beach.
Shuman, Edwin Arthur, 3d., [redacted] Virginia Beach.
Tschudy, William Michael, [redacted], Virginia Beach.
Vogel, Richard Dale, [redacted], Hampton.
Wilber, Walter Eugene, [redacted] Virginia Beach.

WASHINGTON

Brunhaver, Richard M., [redacted] Moxee.
Kerr, Michael Scott, [redacted], Sequim.
Schierman, Wesley Duane, [redacted] Spokane.
Vissotzky, Raymond Walter, [redacted]
Writer, Lawrence D., [redacted], Olympia.

WEST VIRGINIA

Mayhew, William John, [redacted] New Manchester.

WISCONSIN

Doughty, Daniel James, [redacted], Ladysmith.
Flom, Fredric R., [redacted] Appleton.
Gerndt, Gerald Lee, [redacted] Suring.
Heliger, Donald Lester, [redacted] Madison.
Metzger, William John Jr., [redacted] Wisconsin Rapids.

NOT DESIGNATED

Hughey, Kenneth Raymond, [redacted]

BELGIUM

Newcomb, Wallace Grant, [redacted], Liege.

ENGLAND

Craner, Robert R., [redacted], Formby, Lancashire.

ITALY

Kirk, Thomas Henry, Jr., [redacted], Trieste.

WE ALWAYS HAVE UNEMPLOYMENT FOLLOWING WARS

Mr. YOUNG of North Dakota. Mr. President, some of the most sensible, down-to-earth thinking takes place in the more rural areas of this country, and much of this is particularly well expressed by the editors of the weekly newspapers.

I was impressed with the thoughts expressed in an editorial titled "We Always Have Unemployment Following Wars," by Mr. D. J. Shults, editor of the Adams County Record, a weekly newspaper published in Hettinger, N. Dak.

Mr. President, I think it is very appropriate that this editorial be placed in the RECORD, and I ask unanimous consent that this be done.

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

WE ALWAYS HAVE UNEMPLOYMENT FOLLOWING WARS

(By D. J. Shults)

We will hear a lot from politicians before the forthcoming election about unemployment in the nation.

Most of us regret any excessive unemployment in the nation. It seems a shame when there is no work available to some who wish to work.

The truth of the matter is, however, that we're bound to have more unemployment in the year or two ahead.

At least a million men will be released from the armed forces during that period and at least another million will be released from jobs in war production plants and other establishments having to do with war.

We ask these politicians crying out about this temporary period of unemployment: "Do you want more war or do you want to advocate our nation to go through a rather tough period of readjustment with temporary unemployment? You can't have both. Are you warmongers in action and politicians in words seeking votes?"

Wars cause a worker shortage and, when they are over, cause temporary unemployment in reajustment periods.

We are old enough and have had enough experience to know that any national leader can solve any unemployment problem by getting us into a war.

In 1939 Franklin D. Roosevelt, after seven years in office as president, had 9,000,000 unemployed in this nation, which had considerable less population at that time. Then WW2 broke out and in 1941 we got into it. Our unemployment problem was solved.

We have an unemployment of about 5% in the nation at this time. We can remember that Harry S. Truman said in the late 1940's that a 5% unemployment was healthy for the nation. Anyway, we got into the Korean War shortly thereafter. Our unemployment problem of that period was solved.

In the early 1960's under John F. Kennedy our unemployment percentage was higher than it is today. Kennedy went into the Vietnam War in a small way and his successor, Lyndon B. Johnson, vastly escalated it. Presto, our unemployment problem was solved.

We tell you people who read this, you can easily solve our present unemployment problem. Just escalate the present war or start another one. The solution is very simple. Tragic, of course, but very simple.

So far as we are concerned, we'll take a short time unemployment problem than have war. And we'll keep right on crying out against politicians crying out against unemployment caused by a de-escalation or cessation of war. We hope the readers of this column feel likewise.

That does not mean, however, that we must not work to solve our unemployment problems. Indeed, just as soon as possible, we should establish the solving of our unemployment and other coming post-war problems as one of our first priorities.

Our present complaint is against these double-tongued and two-faced politicians who seek votes by crying out against unemployment when, if they have any brains and are sincerely interested in you people (providing of course, you prefer a tough period of unemployment to war) they know that every post-war period has its readjustment problems, one of which is short time unemployment.

We are hopeful that our readers believe as we do, and that they will strongly rebuke in words or by their vote those politicians who wittingly or unwittingly permit a war to develop as a solution to any labor or economic temporary problems, as has been done in the past. Such people are not fit to represent the people of this nation who are against foolish wars. Of course, if any of those who read this are for wars to solve unemployment or other of our economic problems, such politicians are aptly fit for them.

In conclusion, a few final words to all politicians, both Democrat and Republican: Fairly attack the president or any of your political opponents on any of a lot of issues all you wish. But don't attack on any issue that might have to do with worsening this war or the results induced by it. If you do, this writer will join many thousands of others in working three times as hard for your defeat.

PRESIDENT URGED TO BAN DDT

Mr. NELSON. Mr. President, yesterday Senators HART, CRANSTON, RIBICOFF, CASE, GOODELL, MCINTYRE, and I wrote to President Nixon urging him to instruct the Department of Agriculture not to oppose a court-ordered ban on the persistent pesticide DDT.

The U.S. Court of Appeals of the District of Columbia has ordered the U.S. Department of Agriculture to show cause why the registration of DDT should not be suspended. We asked the President to instruct Agriculture Secretary Hardin to withdraw his Department's opposition to banning immediately the unnecessary uses of the pesticide.

The Mrak Commission report of the Department of Health, Education, and Welfare on Pesticides and Their Relationship to Environmental Health documented the evidence establishing that DDT is a cancer-causing agent, is contaminating the Nation's food supply, and is causing serious harm to fish and wildlife populations.

Also of great significance are the recent findings of the Wisconsin Department of Natural Resources. After a long series of hearings in which DDT manufacturers presented evidence supporting the uses of the pesticide and conservation groups documented its hazards to the environment, the department classified DDT as a water pollutant subjecting it to regulation under Wisconsin's Water Quality Act. After reviewing thousands of pages of testimony the department announced:

> While ingestion and dosage (of DDT) cannot be controlled, minute amounts of the chemical have biological, pharmacological, and neurophysiological effects of public health significance.

The Department of Agriculture has authority to suspend the registration of pesticides if they are found to be an "imminent hazard to the public." Congress provided the suspension for cases precisely like DDT where the evidence on damage to the environment and wildlife and the dangers to human health have been thoroughly documented.

The immediate suspension of unnecessary uses of DDT would be an environmental milestone and would set the stage for further enhancement of our environment.

THE U.S. INITIATIVE IN THE MIDDLE EAST

Mr. JACKSON. Mr. President, President Nasser is reported in today's New York Times as responding to the latest U.S. initiative in the Middle East by characterizing it as "a bloody, malicious declaration against the Arab world's future."

This brief Times dispatch will certainly prove of interest as events surrounding the new initiative unfold in the near future; I ask unanimous consent that this article, entitled "U.S. Proposals for Arab-Israeli Peace Are Rebuffed by Nasser," be printed in the RECORD.

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

U.S. PROPOSALS FOR ARAB-ISRAELI PEACE ARE REBUFFED BY NASSER

(By Raymond H. Anderson)

CAIRO, June 25.—President Gamal Abdel Nasser tonight rebuffed the latest United

States plan designed to bring about a peaceful settlement between the Arabs and Israel.

Speaking at a rally in Benghazi, Libya, the Egyptian leader declared: "There is talk about a plan for the evacuation of Israel from all Arab territories except the Golan Heights of Syria, but I tell you in the name of your brothers in Egypt, that evacuation from Golan must be first."

Mr. Nasser's remark appeared to confirm reports that the United States formula included a provision for Israeli withdrawal from all occupied Egyptian and Jordanian territory seized in the six-day war of June, 1967, but made no reference to the Golan heights. Syria has not yet announced acceptance of the 1967 United Nations Security Council resolution for a Middle East settlement.

The latest United States peace formula, it is reported, is focused on obtaining a settlement in accordance with the resolution, which calls for Israeli withdrawal from occupied Arab areas and Arab recognition of secure boundaries for Israel.

Addressing a wildly cheering crowd in the capital of Cyrenaica Province, Mr. Nasser said:

"I tell you, in the name of your brothers in Egypt, who refuse any compromises for withdrawal, that withdrawal must be from the Golan heights before Sinai. If we had wanted only withdrawal from the Sinai, we could have agreed with the United States on this two years ago. But we have declared more than once that withdrawal must be from Golan first, and Jerusalem as well."

Last fall, the United States submitted a plan to Cairo involving an Israeli withdrawal from the Sinai Peninsula under security arrangements and a negotiated settlement for the Gaza Strip and Sharm el Sheik, the outpost controlling the entrance to the Gulf of Aqaba.

The Egyptian leadership objected to the provisions on the Gaza Strip and Sharm el Sheik as infringements on the country's sovereignty.

Cairo also objected that the plan was an attempt to lure Egypt away from a united Arab stand against Israel.

MILITANTS DENOUNCE PLAN—P

(By Eric Pace)

BEIRUT, LEBANON, June 25.—Militant Arab governments and Arab guerrilla groups denounced today Washington's plea to "stop shooting and start talking about peace" in the Middle East.

The Syrian authorities said that the United States peace efforts, formally announced by Secretary of State William P. Rogers, were really "a bloody, malicious declaration against the Arab world's future."

Both the Egyptian and Jordanian Governments kept silent about the substance of the proposals, however, and the anti-American rioting that had been widely feared failed to materialize by nightfall.

Mr. Roger's refusal to discuss the matter of providing American warplanes to Israel evidently dissuaded Arab commandos from fomenting the disorders they had threatened—particularly in Amman—in protest of American backing for Israel.

Major commando groups contented themselves with continuing their criticism of the American proposals as they were reported earlier. A spokesman for the dominant organization, Al Fatah, said here that Washington's peace efforts merely showed "that we have to continue our struggle."

In Amman, the Popular Front for the Liberation of Palestine, considered the third strongest commando group, said that it rejected the American proposals. Its leader, Dr. George Habash, threatened reprisals against American interests.

The Baghdad newspaper Al Jomhuria, which speaks for the left-wing Iraqi regime, said that the American proposals used peace "as a mask" to deceive and divide the Arab peoples. The proposals were criticized by both the Damascus radio and Al Baath, the organ of Syria's ruling Baath party.

The Lebanese Government, however, even praised what was construed here as a hint from Mr. Rogers that additional planes for Israel would not be forthcoming. The Information Minister, Osman Dana, said, "this is a good initiative on the part of the U.S. not to give Israel military assistance." "If the United States came to us one day with demands that we were convinced could be fulfilled only at peril to ourselves, we would oppose them."

The Premier, who was addressing students at Migdal Haemek, a settlement near Nazareth, added, however, "Neither the United States nor any other country demands that we retreat just like that without a peace that guarantees the inviolability of our frontiers."

"Such a demand," he added, "comes only from the Arab countries and from the Soviet Union and its satellites."

The Cabinet met this afternoon in Tel Aviv in what was called an extraordinary session, shortly before Mr. Rogers held his news conference. It decided to summon Itzhak Rabin, the Israeli Ambassador to the United States, home for consultations. He is expected in Israel tomorrow.

Many private citizens here expressed astonishment that Mr. Rogers chose to keep the details of the American proposal secret. It is considered almost certain that there will be widespread disappointment here that he deferred any announcement about Israel's request for 125 more American jets.

FOOD STAMP FUNDING

Mr. McGOVERN. Mr. President, I would like to take a few moments to clarify what I believe is a misunderstanding about funding needs of the food stamp program in the next 2 fiscal years. Last Monday my colleague from Louisiana, chairman of the Agriculture Committee and acting chairman of the Senate Appropriations Committee, Senator ELLENDER, proposed a contingent appropriation for the food stamp program during the first 3 months of the next fiscal year. He proposed the program be permitted to operate at a level of $100 million a month for that period of time.

During a brief colloquy regarding Senator ELLENDER's proposal, it was stated that this level of $100 million a month is "slightly less" than what the Senate authorized for the program in its food stamp bill passed last September.

I was not on the floor at the time when this discussion took place and when the Senate agreed to the contingent appropriation at that level.

I think it is important to make clear that the Senate actually authorized $2 billion for the food stamps in the coming fiscal year and $2.5 billion in the fiscal year following that. The contingent appropriation of $100 million, figured on an annual basis, only adds up to some $1.2 billion, a full $800 million short of what the Senate authorized. I know that the Senate will not feel that by having agreed to this contingent appropriation it has in any way compromised its right to insist on the full $2 billion that it authorized when the issue of regular appropriations come before it. There should be no question in anyone's mind that the full $2 billion is desperately needed.

In this regard, I would bring to the attention of my colleagues a hearing that the Select Committee on Nutrition and Human Needs, of which I am chairman, held on Friday, June 19 with Assistant Secretary of Agriculture, Richard Lyng. During this hearing, it was clearly established that the administration's original $1.25 billion budget request for fiscal 1971 would bring its efforts to continue expanding the food stamp program almost to a halt. Secretary Lyng agreed with me that, in order to expand the program in the coming year as it has been expanded in the past year, the $2 billion authorized by the Senate is the minimum necessary. I hope that the administration will see fit to accept Mr. Lyng's judgment by coming forward with an increased budget request equal to the amounts authorized by the Senate last September. I further hope that this needed request will be made before the Senate Appropriations Committee completes its action on food stamp funding for the next 2 fiscal years.

Mr. President, in May of last year the President sent a message to Congress in which he stated:

> The moment is at hand to end hunger in America itself for all time.

Unless the President and the Congress support the full amounts authorized by the Senate last September, that moment will not come for many years. Years in which millions of Americans will continue to suffer from inadequate diets and the ill health that results.

CBW IV—THE CHANCE OF ACCIDENT

Mr. PROXMIRE. Mr. President, there are those who hold that CBW weapons are so horrible that no nation could ever use them. But even if we were to accept the premise that these weapons are too horrible to be used—is there not always the possibility of severe error?

A Harvard Medical School professor was recently quoted in a Look magazine article as saying:

> It is a well known principle in the use of dangerous materials that anything that can go wrong will eventually go wrong if the materials are used often enough, despite the most elaborate safety precautions.

The Look magazine article documents some of the errors that have already occurred from U.S. CBW activities.

In March of 1968 nerve gas was sprayed from an airplane at the Dugway Proving Grounds, some 80 miles from Salt Lake City. The gas drifted some 45 miles off target and killed 6,400 sheep in Skull Valley. As the article notes:

> Only rain and evening snow that brought the killing cloud to earth prevented the gas from floating over heavily traveled Highway 40. A wind shift could have blown the gas to Salt Lake City. Dugway experts reported all danger had passed four days after the accident. But scientists who tested the forage 23 days later discovered the residues of nerve gas still killed sheep.

Calves are still being poisoned near Dugway.

In July of last year on Okinawa 23 soldiers and a civilian were victims of nerve gas poisoning. While none was permanently affected, it was made known for the first time that gas was stored on Okinawa. Similarly it was disclosed that the United States was storing gas in West Germany and making open air tests on Hawaii.

In the fifties contaminated waste from the Rocky Mountain Arsenal was dumped into ponds where it fed into nearby streams and killed livestock and destroyed crops.

Recently it has come to public attention that the Army has been taking unnecessary risks in the storage, shipment and destruction of obsolete gas agents. Even without these unnecessary risks there is always a danger of an accidental disaster of major proportions.

Mr. President, the United States must take the lead in an international effort to halt all production, testing, and storage of CBW. Whether used on purpose or by accident these weapons could bring about inconceivable destruction. We must set an example not only by renouncing production and testing of chemical weapons—we have already done so for biological weapons—but by ratifying the Geneva Protocol of 1925. I hope the President keeps his promise to resubmit the protocol to the Senate and that the Senate gives its prompt consent.

CORPORATE EXECUTIVES COMMITTEE FOR PEACE

Mr. McGOVERN. Mr. President, on yesterday 100 executives from some of the Nation's most important corporations came to Washington to urge support for the amendment to end the war. These men, some of the most respected business leaders in the Nation, strongly support the amendment which we will be examining in full when the military procurement bill comes to the floor this summer.

It should be reassuring to all those who are convinced that the war in Indochina must end now that the leaders of the business community have come to that conclusion.

I ask unanimous consent that an article in today's New York Times reporting on the efforts of the business executives be printed in the RECORD.

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

WAR IS PROTESTED IN CAPITAL BY NEW YORK EXECUTIVES

WASHINGTON, June 24.—One hundred executives from almost as many national corporations flew from New York to the capital today in a move to bring an end to the Vietnam war.

The marketing and advertising executives, with American flags on their lobbying kits and flag-pins in their lapels, announced "we're pro peace" to newsmen and set out to lobby selected Senators in favor of Hatfield-McGovern proposal to set a deadline for the end of American involvement in Vietnam.

Paul Woolard, executive vice president of Revlon, Inc., told reporters that the executives were neither pro-right nor pro-left. He said they were "believers in the defenders of the system" and they wanted to "end the war by Dec. 31, 1970."

Mr. Woolard said that the group was "like the tip of an iceberg" in the business community and expressed the belief that thousands of business executives would soon move to end the war.

"The best thing we can do for our economy and our country is liquidate this war," he said.

350 EXECUTIVES IN GROUP

The Corporate Executive Committee for Peace, which organized about six weeks ago, is made up of more than 350 executives in the top levels of business.

They represent themselves as men and women who have never taken direct political action before but who are familiar with the system and use of power to achieve their goals.

The executives have said they want the war to end by Dec. 31 and to pull all troops out of Vietnam by July 30, 1971. The mid-1971 pullout date would be required under a proposal of Senators George S. McGovern, Democrat of South Dakota, and Mark O. Hatfield, Republican of Oregon.

To achieve their end, the executives have announced plans to use their knowledge of business communication and money in backing selected candidates this fall, in mobilizing the business community and in "issue" advertising.

Senator Charles E. Goodell, Republican of New York, met the executives on the Capitol steps and told them their presence "means a great deal to those of us who are working in the peace movement."

He said the executives would have an "advantage" over student lobby groups, "stigmatized unfairly by the few who are radical," and could have a real impact because of their obvious patriotism and belief in the capitalistic system.

WHITE HOUSE MEETING

The executives went in prearranged teams to meet with selected Senators. A group of nine executives was quickly gathered when a White House telephone call invited members to a meeting with a Presidential Assistant, Peter M. Flanigan, and a member of the Council of Economic Advisers, Herbert Stein.

The group emerged from the White House after an hour of discussion about the war and the economy and expressed optimism over this first contact.

Hal Davis, president of Grey and Davis, reported that the conversation had centered on the membership of the group and its reasons for being in Washington. He said he expected more meetings with White House staff members and emphasized that the executives expected some of their number to meet with President Nixon when he returns from California.

In reference to some former advertising executives now on the President's staff, Mr. Davis said, "We told them to tell the J. Walter Thompson alumni that we have some J. Walter Thompson executives in our group, too."

E. Patrick Healy, a former Peace Corps and Job Corps official who is now vice president for personnel at Young & Rubicam, said that all the executives were optimistic about their ability to influence Congress and the Administration

"I think we can make an effect now because we're a new force, we're businessmen who wield some economic power," he said. "I hope the Congressmen and Senators will be impressed that this many businessmen gathered to come here in only six weeks."

ANNIVERSARY OF POZNAN WORKERS UPRISING

Mr. KENNEDY. Mr. President, Sunday commemorates the 14th anniversary of the Poznan workers' uprising of June 28, 1956. We take time today to salute these valiant people who dared to seek their freedom despite the overwhelming power of their adversary.

At first this seemed to be a mere disturbance triggered by disgruntled factory workers. But soon it became evident that this seemingly spontaneous uprising was the outward expression of deep-seated discontent with strong political implications. Although the uprising was rather easily quelled, and the demands of the workers were met by the authorities, its political significance loomed large then and it looms even larger 14 years later.

Poznan, an important communications center halfway between Berlin and Warsaw, was tightly held by the Soviets. In addition to the presence of Soviet occupation troops, the police-state tactics of the Polish authorities became more and more intolerable. Early in 1956, the government had proclaimed amnesty for the many political prisoners, but the implementation of this amnesty was delayed. While the laborers were told to work more and produce more to meet their production quotas, their demands for adequate pay were ignored. Meanwhile, momentum built up among factory workers to make their demands heard. Finally, frustrated by the indifference of the authorities, these workingmen were forced to take their cause to the streets of Poznan.

On June 28, 1956, many thousands of workers started marching in the principal street of the city. In a few hours their ranks were swelled by tens of thousands. They kept themselves in good order, and no looting or vandalism took place. They went to the city prison and there political prisoners were set free. During all this there was very little opposition between the security force and the marchers, which indicates that even the Polish police were in sympathy with the marchers, Actual fighting only began with the arrival of Russian troops, during the course of which 50 were killed and some 250 wounded. The authorities then agreed to negotiate with the leaders of the people.

Subsequently some of these leaders were tried; but all were given light sentences, and then these were suspended. Furthermore, the Government agreed to raise the pay of factory workers, improve their working conditions, and make adequate provisions for their dependents. On all these just demands the workers won, and they all felt that the mass uprising was justified.

But more important was the change of heart on the part of the authorities. They felt that they could not hereafter ignore complaints of the people, and had to be cautious in all their moves. The Poznan uprising of June 28 also impressed the Soviet authorities. They came to recognize that the Poles could not be pushed easily, and that a certain amount of

freedom had to be allowed to the Polish Government. This meant considerably less dependence on Moscow.

Considering these gains on both the economic and political fronts, the Poznan uprising of June 28 was a significant event in the contemporary annals of Poland. We observe the 14th anniversary of that urprising as a milestone in the continuing struggle against Communist tyranny.

THE DISTRICT OF COLUMBIA CRIME BILL—A DRASTIC OVERREACTION TO A CRITICAL PROBLEM

Mr. JAVITS. Mr. President, the District of Columbia crime bill, now before the Senate-House conferees, has the noble goal of reducing crime in the District of Columbia. Unfortunately, it uses means which should give all of us grave concern. All too often the problems of the District of Columbia have been given little attention by the Congress, and often the attention given did more harm than good. The House-passed bill, H.R. 16196, fits into that category—it raises grave threats to constitutional liberties with little assurance that it will, in fact, reduce crime.

Certain of the provisions in H.R. 16196 dealing with court reorganization in the District, and expansion of the Bail Agency and the Public Defender System are valuable tools in the fight against crime and should be enacted into law. These provisions were in the series of bills that passed the Senate last fall. However, many other provisions which were not in the Senate bill but are in H.R. 16196 seriously infringe rights which should be guaranteed to all our citizens—including the citizens of the District of Columbia. I find the following provisions the most objectionable:

PREVENTIVE DETENTION

H.R. 16196 provides that a person may be detained prior to trial when a judicial officer determines, after a hearing, by clear and convincing evidence that no condition or combination of conditions of release will assure the safety of any other person or the community.

Persons subject to the provision must be either charged with a dangerous crime; charged with a crime of violence if the crime was allegedly committed while the person was on bail or other release from another crime of violence or was convicted of such a crime within the last 10 years; charged with any offense if threats to jurors or witnesses are involved; or a narcotics addict charged with a crime of violence.

At the hearing, representation by counsel would be afforded, and there would be a right to testify, present evidence, examine and cross examine witnesses. However, the traditional rules of evidence would not apply, and testimony given by the defendant could be used for impeachment purposes in any subsequent proceeding.

Persons detained under the bill's provisions, to the extent possible, are to be given an expedited trial. After the expiration of 60 days, the person must be treated in accordance with the provisions of the Bail Reform Act. In certain cases, this would not necessarily result in the release of an individual.

The preventive detention proposals raise serious constitutional questions in the areas of due process and the right to bail in noncapital cases. At this time, the issue of the constitutional right to bail under the eighth amendment has not been fully resolved by the Supreme Court, although the Court has recognized the traditional importance of bail.

However, serious fifth amendment questions of due process are raised, whatever may be the resolution of the eighth amendment question. The proof required at the detention hearing would not be based on objectively reviewable evidence but rather on evidence which can be assembled quickly and which can be very speculative since the rules of evidence do not apply. Preventive detention should not be based on this type of evidence.

Another drawback to the preventive detention proposals is that the courts undoubtedly will become even more congested, with the additional hearings required and attempts to get 60-day trials for all who are detained.

Based on the study commissioned by the Department of Justice itself, preventive detention is not justified. The study shows that 17 percent of all persons charged with a felony and released before trial are rearrested, but only 7 percent are rearrested for a second felony. Further, only 5 percent of those charged with a violent or dangerous crime under the new standards of the preventive detention provisions were rearrested for a second violent or dangerous crime.

A final drawback to the preventive detention proposals was pointed out by Charles V. Bennett, former director of the U.S. Bureau of Prisons, who stated that confining people to prisons and jails would only add to the crime problem because of the deplorable conditions that now exist, affecting the future behavior of all who are committed.

While some sort of civil commitment for the treatment of addicts might be desirable—if adequate facilities could be provided—jail detention of addicts will work in reverse. For all of the above reasons, the preventive detention proposals should be deleted from the bill.

More use could and should be made of supervised releases, expedited trials, and daytime work releases before resorting to preventive detention as it appears in H.R. 16196.

NO-KNOCK WARRANTS

H.R. 16196 contains a no-knock provision which would authorize breaking and entering into premises by law enforcement officers without any prior notice to the occupant, with a warrant or without a warrant if the officer reasonably believes that his identity of purpose is known, notice would be likely to result in evidence being destroyed or concealed, or notice would be likely to endanger the life of the officer or to enable the party to escape.

This provision must be viewed in light of its effectiveness and its limitation on the rights of us all—and not just on the rights of criminals. This no-knock procedure is primarily of use in the capture of narcotics and gambling equipment, even though it applies to all crimes. This is a drastic remedy which would not solve as many problems as it would cause. The most serious drawback is that it is a gross invasion of privacy. Furthermore, it would endanger the life of the officer breaking and entering. The black community of the District bitterly resents this as another device to be used against their liberties, and several leaders have called for shooting first in case of a break-in. Before we resort to such invasions we should search diligently for other solutions to the problem of narcotics and gambling. I do not believe this has been done. Therefore, I oppose the no-knock provisions in the bill which seek to expand the traditional common law circumstances for use of such searches.

WIRETAPPING

H.R. 16196 also contains provisions to allow wiretapping and other interception of communication after permission is obtained from a judge. Judicial authority for a tap can be sought for any number of offenses such as abortion, arson, blackmail, burglary, destruction of property in excess of $200, obstruction of justice, receiving stolen property in excess of $100, and other specified offenses. In cases of national security or in a conspiracy connected with organized crime, a wiretap could be conducted on the authority of a law enforcement officer, provided an application for order is made within 48 hours.

This provision would expand considerably the present wiretap authority which has heretofore been used primarily in national security and in organized crime cases. Under the bill, wiretaps can be used in a variety of offenses which are not generally planned in advance and do not lend themselves to detection by the use of such taps.

Again, this is an unwarranted invasion of privacy which will not materially aid in reducing crime and should be eleminated from the bill.

MANDATORY SENTENCES

The bill provides that upon a first conviction of a crime of violence while armed with a pistol or other firearm or imitation thereof, the offender shall be sentenced to a minimum of 3 years and a maximum of three times the minimum sentence normally imposed for the offense up to life imprisonment. After one prior conviction of a crime of violence, the minimum sentence must be 15 years. There is also a provision for mandatory life sentences for persons convicted of a violent crime for the third time, with no eligibilty for parole for 20 years. In the category of offenses covered by the mandatory life sentence fall assaults to commit an offense punishable by more thant 3 years in prison and burglaries. Senator ERVIN has pointed out that upon conviction of a third crime of pursesnatching, a mandatory life sentence would be provided by the bill.

I believe that it is most unwise to remove discretion in sentencing from

judges and to preclude consideration of the individual's background in sentencing. There is no evidence that longer sentences deter crime. In fact, the evidence seems to be that prison inevitably keeps individuals locked into a life of crime.

JUVENILE PROCEEDINGS

H.R. 16196 proposes that any child 16 or over who is charged with a serious crime be treated as adult and taken out of the jurisdiction of the juvenile court. There is no reference made to the past record of the child or to the strength of the evidence against the child. The bill also provides for a waiver to criminal court of juveniles 15 years or older who are alleged to have committed what would be a felony if committed by an adult. In order to avoid waiver, it must be shown that there are reasonable prospects for rehabilitation, and this places a heavy burden of proof on the child. Once waived to the criminal court, the juvenile court loses jurisdiction over the child for all future delinquent acts of any kind.

The bill also establishes a civil standard of preponderance of the evidence instead of the proof beyond a reasonable doubt to determine guilt in juvenile cases. The Supreme Court in the case of In re Winship has recently held that the proof beyond a reasonable doubt standard must be used in juvenile trials. I assume that the bill will be changed to conform to the Court's ruling.

In short, the provisions relating to juvenile offenders attempt to treat these offenders more harshly and tend to deemphasize the rehabilitative aspects upon which the juvenile court system is based. I do not believe that crime will be reduced by treating young children as adults and subjecting them to adult prisons.

PHYSICAL EVIDENCE

H.R. 16195 permits the performance of chemical, scientific, medical or other tests or experiments on designated premises, vehicles, objects or persons, incident to a search warrant. The provision would allow many persons to be detained and subjected to tests of all types when there might not be probable cause to make an arrest. The Supreme Court has suggested that a person might be fingerprinted in the absence of probable cause to arrest but the bill would sanction much more far-reaching practices which could very easily lead to abuse. The unwarranted invasions of privacy which would result outweigh any possible usefulness those tests might have in solving crimes.

COMMUNICATIONS WITH BAIL AGENCY

The bill contains a provision which permits information received by the Bail Agency to be used for impeachment purposes, in perjury proceedings and in trials for offenses committed during the period of pretrial release. This provision would surely undermine the effectiveness of the Bail Agency since defendants would be reluctant to say anything that conceivably could be used against them. The value of this type of information appears small since much other information is usually available for the purpose of impeachment. Thus, this provision probably will do a great deal of harm to the Bail Agency with a small benefit to be gained in return.

SUITS FOR UNLAWFUL ARREST

The bill provides that, in civil suits brought against a police officer for damages resulting from an unlawful arrest, reasonable attorneys' fees shall be awarded to the police officer whether he wins the suit or not. This will result in many citizens not daring to bring legitimate suits against police officers because of the additional cost it will involve. Municipal reimbursement of such costs, where the police officer wins and he has had no government defense, is preferable.

CONCLUSION

I have listed certain of my objections to H.R. 16196 which seeks to reduce crime in the District but in its present form may create more problems than it solves. I firmly believe that what is needed are effective police action and greater use of the many weapons which are already available to the courts, the police and law enforcement agencies. Finally, it should be pointed out that the black community of the District, which represents over 70 percent of the population, greatly fears and distrusts many provisions of H.R. 16196 on the basis of their long experience with the police. The fact that many of the provisions in the bill will be used only in the District at this time tends to confirm their suspicions. Police-community relations play a vital role in law enforcement and these provisions would greatly undermine whatever good relations may exist at the present time.

Therefore, I urge the Senate conferees to seek to eliminate these undesirable provisions contained in H.R. 16196.

HEALTH BUDGET CRISIS—SCHOOLS OF THE HEALTH PROFESSIONS

Mr. KENNEDY. Mr. President, the economic plight of our schools of the health professions has reached crisis proportions. At a time when we need greater numbers of health professionals to improve health care, the administration's budget request for such schools falls far short of the need that exists.

An excellent analysis of the problem and the unmet need is contained in the testimony last Monday by Dr. John A. D. Cooper, president of the Association of American Medical Colleges, before the Senate Appropriations Subcommittee. The statement sets forth clearly and strongly the problems that our medical schools face, and I believe it will be of interest to all of us concerned with the quality of health care in America. I, therefore, ask unanimous consent that Dr. Cooper's testimony be printed in the RECORD.

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

TESTIMONY OF DR. JOHN A. D. COOPER, PRESIDENT, ASSOCIATION OF AMERICAN MEDICAL COLLEGES, WASHINGTON, D.C.

Mr. Chairman and Members of the Subcommittee: I am John A. D. Cooper, President of the Association of American Medical Colleges. I am grateful for this opportunity to comment on some of the elements of the Labor-HEW Appropriations Bill for Fiscal Year 1971 and their critical importance for medical education, biomedical research, and the institutions involved.

First, for the Subcommittee's information, I should like briefly to describe the Association of American Medical Colleges which we represent. The AAMC is the national organization encompassing all of the 107 medical schools of the nation, 390 of the major teaching hospitals, and 38 academic medical societies which represent the faculties of these institutions. The primary objective of the Association is to advance the medical education, research, and the health service functions of the institutions involved as a vital and essential component of the effort to improve the health and well being of the people of this Nation and mankind as a whole. Our purpose in speaking here today is to contribute to the development of policies and levels of support which will make the achievement of this overall objective possible as a prime matter of national interest. We sincerely believe, and we hope to convince you, that the fulfillment of this objective is a matter of the highest priority for the nation as a whole.

Our constituent medical schools and their teaching hospitals are responsible for the undergraduate and graduate education of all the physicians this country produces. Their graduate programs in the medical sciences prepare most of the scientists, clinicians, and teachers upon whose shoulders the further development of medical education and research rests.

As a by-product of these educational activities, large numbers of individuals are trained in other health professions increasingly vital to modern health services. This Subcommittee knows well the role played by medical schools in research and in the advancement of knowledge and technology, which are eventually translated into better health services for all Americans. Measured in terms of national expenditures, better than four-fifths of the nation's medical research is carried out in the laboratories and clinics of our constituent medical schools and their hospital affiliates. This deep ongoing involvement in research has continued to produce the diagnostic, therapeutic, and preventive advances that have revolutionized the nature and enhanced the effectiveness of the nation's health services. It is this research activity that has made American medicine the finest in the world.

The teaching hospitals and clinics which provide the setting for the clinical experience essential to medical education and the laboratory setting for the study and treatment of diseases also make a substantial and little-appreciated contribution to the nation's health services and to the rendition of medical care. Involving 220,227 beds, admitting 5,305,275 patients per year, and providing service through 30,787,967 out-patient visits, these institutions represent—in addition to their primary teaching role—a significant segment of the nation's community service both in terms of the proportion of the care they provide and in the exemplary and innovative nature of the services themselves.

Mr. Chairman, I have set forth this summary description only to be able to emphasize in my following remarks the critical connection that exists between the funding levels proposed in the HEW appropriations bill and the vital role in the national health setting served by the community of institutions for which we speak today. In this context, I should now like to turn my remarks to the relationship between the provisions of this bill and the key health problems which these institutions must face and attack.

THE PROBLEM OF THE SHORTAGE OF PHYSICIANS

Of all the problems that combine to constitute what the President and many others have referred to as the "Crisis in Health,"

the shortage of trained manpower is generally acknowledged to be the most acute. Most critical of these shortages is the M.D. shortage, which persists despite a long-standing public awareness and continued efforts to remedy it. The initial legislation authorizing national action to expand the number of physicians graduated, the Health Professions Education Assistance Act, was enacted in 1963 and amended in 1966 and 1968. In the seven years that have elapsed, substantial increases in the number of students entering medical schools have been achieved.

Based on admission activity thus far, it is estimated that the entering medical school class in the fall of 1970 will total 10,500 students. This constitutes an increase of 2738 first-year places over the first year enrollment in 1963 of 8772 students. In other words, under the institution and expansion program authorized in 1963 and with the aid of the newly inaugurated Physician Augmentation Program, the entering class capacity of U.S. medical schools has been increased by over 31 percent in the past seven years.

This record, Mr. Chairman, presents us with the key question: Why, after these seven years of apparently sustained effort to increase the numbers of physicians, is the nation still confronted with a serious and apparently growing shortage of M.D.'s? It is of the greatest import that this Subcommittee understand some of the reasons underlying this situation. Permit me to suggest three of the most obvious.

First: Demand for physicians' services has increased at a dramatic and unprecedented rate during the last decade. Two major factors contributed to this accelerated growth: Thanks to the latest advances in medical science, medicine has achieved a much-increased capability in dealing with disease and has generated a very high degree of public expectation that all people may share in the benefits of this progress. In addition, major financial barriers to full access to medical care, especially for the aged and the needy, have been removed for the most part by programs like Medicare and Medicaid; this has resulted inevitably in a much greater requirement for physicians' services. These dual developments are, in their way, a kind of testimonial to this nation's progress in medicine, one owing to biomedical research, and the other to political and social advance. These are obviously changes for the better; but they pose challenges which must be met if the change for the better is to be fully realized.

Second: Progress in medical capability and in the removal of arbitrary financial barriers to sound care has served to reveal clearly and sharply the limitations and inadequacies of our traditional methods for meeting the health-care needs of our population. The most serious fault in the current pattern in health services is the poor utilization of both manpower and facilities. In a time of increased demand for physician services, we have no means to assure that the increased number of physicians being trained will be distributed where they are most needed or that their services will be most effectively utilized. The solution to this problem is clearly not within the scope of medical education, since the medical schools have no means of insuring a better distribution of M.D.s. Obviously, a whole new consensus on the scope of national action in the health field will have to be achieved, perhaps to be reflected through the institution of programs of special subsidy, before any inroads on the distribution can be made.

Third: Admitting the contribution of the two previous factors to the continuing problem of the M.D. shortage, I believe that the single most crucial determinant of the situation we face is our utter failure as a nation to make the M.D. shortage a high-priority item in the expenditure of our efforts and resources. In other words, gentlemen, we simply haven't put enough money into existing programs to accomplish the task before us; and this is what brings me directly to the purpose of our appearance before you today.

Despite all of the statements that have been made about the shortage of physicians and despite the best and wisest intentions of the Legislature in providing needed authorizations, the Executive Branch has never requested sufficient funds nor has the Congress appropriated the amounts required to enable medical schools to launch the kind of swift, head-on, and concerted attack that would effectively close the widening gap between supply and demand.

CONSTRUCTION OF TEACHING FACILITIES

Since the passage of the Health Professions Education Assistance Act in 1963, the cumulative total of the annual appropriations authorized therein for the construction of teaching facilities for the health professions through Fiscal Year 1970 amounts to $678,-100,000. Corresponding authorizations amount to $825,000,000. I think it is generally agreed that at the time of enactment those authorizations were regarded as barely adequate to meet the needs then perceived, let alone the needs of this present day.

In the bill now before the Subcommitteē, the appropriations request for the construction of teaching facilities for the health professions totals only $118,110,000, which is $107 million below the Fiscal Year 1971, authorized ceiling of $225 million for this program. It is also disconcerting to note that this FY 1971 request represents only 55 percent of the authorized level, a sharp down ward contrast to the 70 percent relationship between appropriations and authorizations in FY 1970.

The utter inadequacy of these levels of funding is clearly conveyed by the fact that the NIH now has before it applications for construction assistance which have been recommended for approval by the National Advisory Council totaling $600 Million against the 1970 fund level of $118.1 million, or $126.1 million if we include nursing schools.

Permit me to convey the inadequacy of these funding levels even more clearly, more graphically. On May 5 of this year, only a few weeks ago, NBC devoted a portion of its First Tuesday program to a documentary analysis of some of our health care problems. How many members of this Subcommittee saw the crumbling, makeshift classroom of a leading Mid-western medical school? How many saw a group of graduate medical students in the corridor of a teaching hospital attempting in vain to get some information from their cardiology professor over the noise and bustle of their hectic surroundings? Better yet, how many Americans who have become, quite properly, accustomed to thinking of this country as the most prosperous and perhaps the most medically sophisticated nation in the world, were treated to the sorry spectacle of the dilapidated facilities which, in too many parts of the country, have come to characterize the physical plant of our health establishments? I think, Mr. Chairman, that we can do better in 1970 in these United States where our Gross National Product verges on $1 trillion, than to re-create the physical conditions for medical education which prevailed in many an underdeveloped country at the turn of the twentieth century. But we can only do it if we have more money.

As I emphasized in my previous appearance before this Subcommittee, this grant program for the construction, renovation, and alteration of teaching facilities for the health professions is the backbone of our efforts to expand physician production. If the medical schools are to do the job of increasing their enrollments, at a rapid pace, they must be able to expand their existing facilities at a similar pace or else the job cannot get done. We desperately need more classrooms, more lecture halls, and more facilities for self-instruction.

Not only do we require the expansion of existing facilities, but, if the facts are to be accorded any weight, we require the building of completely new ones; for instance, there are still five states in the nation without a medical school or teaching hospital. The Carnegie Commission on Higher Education, in response to this situation and in recognition of the overall predicament we face, has recently called for the establishment of at least ten new medical schools beyond those new schools now under development.

Moreover, we are gravely concerned that the appropriations for the Health Professions Educational Assistance Program which is under consideration by this committee are inadequate for another major reason. It has been indicated that the Administration has recommended a program reduction of $33 million in the 1971 obligation level to reflect a transfer of support for construction grants to teaching hospitals and to substitute for these grants eligibility for guaranteed loans to teaching hospitals through the Hill-Burton program. The Association believes that this recommendation, if implemented, will seriously cripple the attempts which teaching hospitals are currently making to expand their educational and service responsibilities. There are two primary reasons which we believe particularly persuasive in this consideration.

One, several state statutes prohibit borrowing and/or the funding of depreciation by state institutions. Such institutions could not utilize a guaranteed loan mechanism. Secondly, most teaching hospitals have operating losses which prohibit them from using depreciation income to amortize loans because these funds must be used to cover operating deficits.

Mr. Chairman, I submit to the Subcommittee the impossibility of meeting our obligation to expand the physical plant of medical education at the levels of funding envisaged in the Administration budget for FY 1971. In view of the economics and the urgent task ahead of us in supplying the nation's need for M.D.s, I ask that the Subcommittee recommend an appropriation of $225 million; namely, the authorized ceiling for the construction of teaching facilities for the health professions in FY 1971.

INSTITUTIONAL AND SPECIAL PROJECT GRANTS

Health professional education has always been the most expensive area of higher education; costs have increased at a substantial rate throughout the post-war period. The inflationary price-wage trend has, of course, been an important factor in these increases. Perhaps of greatest influence, however, has been the effect of the vast changes in the functions, programs, and services involved in present-day medical education. These changes are impressively reflected in the magnitude and diversity of the activities of the present-day university medical center. Thus, present-day medical education is enveloped in an extraordinarily complex and inter-related sets of educational, research, and service activities serving many public needs. This process of expansion has been supported through many diverse sources not the least of which is represented by federal funds. There have been two salient consequences of this development:

The rate of change has been so rapid that it has been almost impossible to take note of the instability which has continued to characterize the funding of the educational function,

The whole structure of the academic medical center is so unitary, that any diminution of support for one of its programs, must have immediate and pervasive effects upon the integrity of the entire structure and its capability to perform its many other functions.

Mr. Chairman, this is the dilemma which American medical schools confront today; operating costs have risen at unprecedented and unanticipated rates; the substantial and heretofore stabel flow of funds for research support is being cut back.

Fiscal needs and social pressures are drawing the schools into an ever deeper involvement with community health problems thus adding a whole new dimension of community service responsibilities, for which there is little new support, to their burdens. The national clamor for more health manpower has called forth little recognition of the perilous financial instability of the entire framework of medical education. The chief point, then, of this summary is the completely inadequate and unrealistic relationship between, on the one hand the levels of support already provided and newly proposed for Fiscal Year '71 under the Institutional and Special Project Grant programs of the NIH and on the other hand, the ultimate value and needs of these programs in the context of the institutional problems I have just described.

The Institutional and Special Project Grant programs provide the only direct Federal support to offset the increasing operating costs of medical schools thus enabling them to expand their enrollments and to improve their educational programs. In short, the Institutional and Special Project Grants are the very lifeline of sustenance for the advancement of medical education. Again, the cumulative appropriations for these programs since their inception in 1966 have fallen far short of the minimum needs reflected in the existing authorizations: $263,-982,000 appropriated versus $317,000,000 authorized.

While we are pleased to note the proposed increase of $12,250,000 in the FY 1971 request for Institutional and Special Projects Grants, the total amount of $113,650,000 is still only 70 percent of the 1971 authorization of $168,-000,000. Last year's appropriation, in contrast, represented 87 percent of the authorized ceiling.

As the subcommittee knows, institutional grants made under this program are distributed over all the health professions schools: medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, and veterinary medicine. The funds provided to date, of which only 45.7% on the average goes to the medical schools, are so inadequate as to thwart completely the chief purposes for which the program was brought into being.

The Special Project Grant provides the basic means to support the development of programs in new fields, to innovate in curriculum and teaching, and to assist schools in serious financial straits. Just as an indicator of the grim financial plight afflicting our medical schools, I can inform the Members of the Subcommittee that 61 medical schools, more than one-half of the total in the nation, have been awarded Special Project Grants on the basis of some condition of financial distress. This fact alone suggests the utter inadequacy of our basic support arrangements for medical education as they are presently conceived.

We hope that there will be a thorough examination of this grave problem during the legislative considerations to be given to the extension of the Health Professions Education Assistance Act in the coming year. A more realistic formulation for basic institutional support must be devised. In the meantime, unless we can provide support at the full levels authorized for Fiscal Year 1971, the need to offset financial distress will severely diminish the funds available to finance sorely-needed innovation, curriculum changes, and other new developments under the special Project Grants program.

Mr. Chairman, we hope that out of the legislative consideration soon to be given the extension of the Health Professions Education Assistance Act will emerge a set of support arrangements that will provide for basic operational costs as well as new program development, and thus prevent further competition between these two separate and distinct areas of need. In the meantime, these needs must be met in a way that minimizes such conflict; and this can only be accomplished through full funding. We therefore urge this Subcommittee to recommend the appropriation of the authorized ceiling for the Institutional and Special Project Grants, under Section 770 of the Public Health Service Act, namely $168,000,000.

SUPPORT OF MEDICAL RESEARCH AND TRAINING

Our academic medical centers are the single most important source of research activity and research information in medicine and the life sciences. The great progress in medicine that we have witnessed in our lifetime has been the direct consequence of the expanded scientific effort to discover the nature of disease and decipher the mystery of life. These advances have transformed our overall prospects for health and radically changed the character and quality of medical care and health services. Telling examples of the effects upon life-expectancy and health service demands made possible by the quiet advances of research are many.

The nation is now involved in major spending of substantial sums to care for people, especially children, suffering from mental retardation and other crippling congenital defects as a consequence of German measles. This should be viewed against the new possibility for the eventual total elimination of this health burden through the widespread use of newly developed vaccine against the German measles virus. The scientific knowledge that has made possible the successful development of this vaccine was accumulated over fifteen years in programs of wide-ranging fundamental research on the nature of viruses, the genetics of viruses, and the means to propagate them safely in the large quantities needed for vaccine production.

Similarly, Parkinson's disease, a progressive disabling disorder of the nervous system, long has made enormous demands upon the nation's health facilities and health personnel to provide the long-term nursing and domiciliary care required for thousands of victims of this disease. Federally supported research has now shown that the drug L-dopa is highly effective in controlling the debilitating manifestations of Parkinsonism. As a consequence many who suffer from this affliction will now become self-reliant and will be able to return to near normal activity, greatly relieving the need to care for them as invalids.

Beyond these examples, there is a long list of crippling diseases whose care under presently available knowledge and technology consumes a substantial portion of the nation's health expenditures because they afflict such a large proportion of the population. Included amongst these is rheumatoid arthritis, which, although now explicable under a newly developed viral theory that may one day lead to a preventive vaccine, continues to afflict better than 10 million people in the United States; diabetes mellitus, commonly referred to as diabetes, with approximately 5 million cases in the United States; and arteriosclerosis, a slow but sure killer of which there may be more than 50 million cases in the United States. In addition to their high cost, these diseases cause untold human misery and sorrow and kill off highly productive people in their prime.

The considerable dimensions of the essentially unnecessary and potentially controllable incidence of disease, disability, and death with which we must now contend is reflected by the fact that:

People under the age of 65 comprise two-thirds of all short-term acute hospital patient days.

On any given day, an average of 1,684,000 people in the nation's employed labor force are absent because of illness.

Forty-four percent of the entire population of the United States suffer from some chronic condition that imposes some degree of disability.

Fifty percent of all deaths are below age 70—the Biblically allotted life span.

Medical ability to prevent, treat or cure these diseases altogether is seriously impaired for want of any useful explanation of their cause or development.

Thus, our chief hope of halting the rising costs of medical care, diminishing the burden of illness or disability and forestalling premature death, lies in continued and substantial programs of medical research. Only through the acquisition of new knowledge and its application in more sophisticated technology can we hope to deal effectively with all aspects—prophylactic, diagnostic and therapeutic—of disease.

Government support for the scientific exploration of disease during the past two decades has brought us to the threshold of an era of unparalleled potential for biomedical research. From 1955 to 1967, largely through the programs of the National Institutes of Health, increasing annual commitments of Federal funds for research, education of biomedical scientists, and construction of research facilities made it possible for American universities and medical schools to broaden the scientific base for preventive and therapeutic medicine. The United States assumed undisputed leadership in biomedical and health research, evolving a system which was to become a paradigm for the entire world.

In order to retain that position of leadership we must endeavor to preserve the structural and procedural devices which have made that leadership possible. It would therefore be sheer folly in our otherwise commendable efforts to translate long-term research gains into immediate health care benefits, to sacrifice, by way of trade-off, the integrity of our biomedical research establishment. Unfortunately, the current parsimonious trend in budgeting for Federal health programs more than suggests the grave possibility that this nation's continued investment in the long-term advancement of the scientific base of medicine and health may be progressively dismantled.

In the five-year period 1965 through 1969, the total national expenditure, public and private, for medical care and health purposes increased from $38,900,000,000 to $63,000,000,-000. The Federal share of this expenditure rose from $4.6 billion to $15.1 billion, an increase of over 330 percent. During this period of rapidly increasing health service expenditures, the nation's investment in medical research increased only 40 percent, from $1.8 billion in 1965 to $2.6 billion in 1969.

In proportion to total health expenditures, medical-research spending actually declined from a level of 5 percent in 1965 to barely 4 percent in 1969. Federal medical research expenditures, as a proportion of total Federal health expenditures, dropped from 24 percent to 11 percent in the same period.

This cutback in support for biomedical research was continued in the appropriations for Fiscal Year 1970 and is implicit in the President's request for Fiscal Year 1971. What is clearly overlooked in the budgetary planning which generated these figures, is the effect of wage-price inflation which has been conservatively estimated to be increasing at a rate of 6 percent per annum. The effects of this inflationary factor on funding for medical research is reflected in the following comparison between the budget levels proposed for the research programs of the National Institutes of Health and in Fiscal Years 1969, 1970, and 1971 with the amounts required to maintain the 1969 program level under a 6 percent wage-price increase:

	President's budget	Requirement to maintain 1969 level of research activity	Deficit in budget allowances
Fiscal year:			
1969	$1,002,537		
1970	973,749	$1,062,689	$88,940
1971	1,035,548	1,190,351	154,803

For Fiscal Year 1971, the figures include in addition to the inflationary allowance, the special programs increases proposed.

Beyond the failure to offset the function of inflation in substantially reducing the actual level of these vital research programs, the appropriation request for Fiscal Year 1971 now before the Subcommittee will have other unfortunate effects:

1. The General Research Support Program will be cut back by $12 million. If this cut is allowed to stand, it will result in the major erosion of a program which for almost 10 years has constituted the single most important source of institutional funds for the development and fortification of graduate research and educational programs along those lines best suited to each institution's particular needs and capabilities. This program has been the *sine qua non* for advancing the overall stability of the research and research training programs of our nation's medical schools and the proposed cut-back would be a dangerously retrogressive step in Federal university support policies.

2. The Administration budget proposes further reductions in the Fellowship and Training Grant Programs of NIH. These programs are the major sources of support for graduate and post-doctoral training in the medical sciences. The individuals trained under these programs form the first manpower pool from which the research investigators, education leaders, and clinical faculty needed to staff the new and expanded medical schools and their institutional counterparts in the other health professions must be drawn. Consequently, these cuts conflict directly with the efforts that would be undertaken under other programs supported in this bill to increase health manpower.

3. For the second year in a row, the President's budget makes no provision for the construction of research facilities. This program together with the research training programs of the NIH represents our investment in the nation's future medical capability. If we are to reap the promise of the progress we have made in the medical sciences thus far, we must continue the expansion of the basic resources required to insure further progress. Cessation of research facility construction will effectively halt the further growth of medical research in this nation because the need for new and expanded research space as well as the repair and renovation of existing space are at a critical stage. A recent nationwide study of the existing medical-research plant of the nation shows that to carry out urgently needed repairs and renovations, to relieve overcrowded facilities, and to assure proper housing of research animals, an addition of 14.8 million net square feet of space is required, estimated to cost $1.7 billion. This is to provide for our existing research programs without any provision for future expansion. Last year, and now this year under the President's budget, no new funds are available for this most essential program.

Thus in summary, the cumulative results of the abrupt slackening of financial support for biomedical research and training that commenced four years ago and the steady erosion of the system by inflation are becoming alarmingly evident:

Ongoing research programs of high quality and demonstrated merit have been curtailed; some are now threatened with termination by lack of funds.

Teams of scientists and technicians painstakingly organized over many years are being disbanded as their productivity is hampered by fiscal stringency.

Younger scientists are finding increasing difficulty in obtaining support for exploration of exciting new areas of great promise.

Training and educational programs, the vital sources of the academic cadre required to meet the nation's urgent and growing needs for more health professionals, are faltering; some have been forced to shut down completely because the support which brought them into existence has dropped below the point that enables them to remain viable and productive.

The vital base of medical education and research, which are indisputably symbiotic, is threatened with a growing instability dangerous to the continued operation of many schools.

Highly significant alternative approaches to the control of important diseases remain unexplored simply because there are no funds to sustain forward movement.

It would be tragic and at the very least ironic, if we were to allow this nation's long-standing and highly productive investment in medical research to dissipate by default and neglect at precisely that moment in history when our governmental commitment to the health care of the country's children, aged citizens, and disadvantaged groups is finally being nailed down and translated into ever-widening programs. How can the better delivery of health care to these groups especially, constitute anything like a medical "Bill of Rights" if that health care proceeds in the absence of the latest scientific knowledge? And what is the source of that knowledge, if not research? It is particularly ironic that it is this very commitment to health services that is offered as the reason for limiting budgets for health research. The educational and scientific lead times for improving health care are long, and false economy today can lead to the deterioration of our capability to cope with the problems of tomorrow.

We therefore urge the Committee to recommend that the appropriations for the Research Institutes and Divisions of the National Institutes of Health be increased by the amounts necessary to offset the 6 percent annual increase in price and wage costs over the Fiscal Year 1969 base. In doing so, we do not mean to imply that the 1969 figures were by any means optimal, but they at least represent the last consensus of legislature and executive on those levels of support which, in the context of a war-time economy and a severe inflation, could be justified as not incompatible with the survival of our biomedical research establishment. I might add here that the Association of American Medical Colleges has recently established a Biomedical Research Policy Committee under its Council of Academic Societies. This Committee is embarking on a thorough study of the question of the appropriate levels of support for biomedical research in this country. Through this means, we hope to provide a more rational basis for the development of national policy in respect to the support of the biomedical sciences. We shall be pleased to present the results of this examination to this Subcommittee when the study is completed.

In addition to an increase of 6 percent in the basic programs, we would like to see preserved intact the Administration-recommended increases over 1970 for the special emphasis research programs in the selected disease and health problems area, which hold the promise of immediate advance in our capability to manage them, i.e., major breakthroughs in the conquest of disease and disability. The Administration has very wisely singled out these programs for special fiscal support through additional funding.

We urge also that the General Research Support Programs be continued at a full funding level, meaning the same 6 percent annual increment, and that the full authorization of $30 million be appropriated for the Health Research Facility Construction program under Section 704 of the Public Health Service Act.

Student assistance

Adequate financial assistance for medical students is an inseperable part of the problem of expanding medical-school enrollment. We are committed to the view that such expansion should be based on the principle that all qualified students should be given a place in a medical school.

We believe American medicine should reflect the full ethnic, socio-economic, and geographic distribution of the American population. We are bending every effort to that end, at the same time that we are striving to maintain the very high standards of medical education.

A major effort is now being made to increase the matriculation into medical education of students from minority and disadvantaged backgrounds. This problem has just been submitted to intensive study by a group representing physicians, hospitals, minority groups, and medical educators. The report of this group recently released emphasizes that long-standing, arbitrarily imposed barriers to full equality of opportunity for the pursuit of careers in medicine must be promptly eliminated; to that end the report sets the goal of quadrupling (2.8% to 12%) the proportion of minority students in medical classes by 1975; it goes on to identify the main barrier to minority student enrollment in the medical schools as the inadequacy of financial aid available to them.

The levels of support for the Student Assistance Program in the Health Manpower budget for Fiscal Year 1971, can only work to aggravate what was already a severe situation in Fiscal Year 1970; these levels of support are so inadequate as completely to thwart the objective just stated, and to result additionally in the exclusion of students from middle income families from entering or continuing upon the rolls of our medical schools. Mr. Robert Shannon of the Student American Medical Association in testimony presented to this Subcommittee, states our position on student assistance, but we should like to emphasize the following elements for your consideration:

The Health Professions Scholarship and Loan Programs, initiated under the Health Manpower Amendments of 1965, as amended, authorize appropriations of $35 million for the loan programs and an amount for scholarship programs equal to $2,000 multiplied by 10% of the total health professions enrollment. Since there will be approximately 84,000 students enrolled in health professions schools in the academic year 1970–71, the authorization for this scholarship program would total $16,800,000.

Against the authorization of $35 million, the President's budget proposes $12 million for student loans, which is a reduction of $3 million from the $15 million level appropriated in 1970 and $14,500,000 from the $26,500,000 level of 1969. At the present time, the health professions schools of the nation have reported loan applications from students in excess of $43 million, almost four times the budgetary level proposed.

While the Administration proposed $15 million as the budget level for 1971 for the scholarship program, the amount required to meet the authorized allocation formula is $16,800,000. Thus, for these two critical student assistance programs, whose authorized levels total $51,800,000, the 1971 budget proposals would only allow $27 million, a deficit of approximately $25 million.

This level of financing for student assistance programs, in the face of persistent demands to expand medical school enrollments in a manner that increases the pro-

portion of minority and disadvantaged students, can only be viewed as unrealistic, if not disastrous in what it portends for the accomplishment of these objectives. It has been widely rumored that the Administration's intention here was to substitute the President's amplified guaranteed loan program, as outlined in his Higher Education Message of this year, for the Health Professions Scholarship and Loan Program which is the subject of this appropriation. I have references here to the guaranteed loan program under Title IV, Section 425 of the Health Education Act of 1968. Unfortunately however, this is just not a viable substitution because the guaranteed loan program, by its very nature, discriminates against the medical student with his long training period and uniquely high educational costs.

The maximum amount that a student may borrow under the guaranteed loan program is $1,500 a year with a ceiling of $7,500 upon a student's total borrowing power over the entire course of his undergraduate and professional education. These numbers must be set against the fact that in the academic year 1969–70, the average annual expenses for a medical student were approximately $5,000, or a total of $20,000 for the four-year M.D. program only, and these costs are expected to increase. The incompatability of the levels of support under the guaranteed loan program with the realities of a student's needs in financing medical education is all too clear. Moreover, if the President's revision of the guaranteed loan program becomes law (and his proposal would in no event take effect sooner than fiscal '72), the $2,500 annual ceiling coupled with a revised total borrowing ceiling of up to $12,500 annual loan ceiling coupled with a revised total borrowing ceiling of up to $12,500, would not be much more realistic in meeting the rapidly rising costs of medical education. Furthermore, as the guaranteed loan program is conceived, a student borrowing as an undergraduate may have used up all of his borrowing power before he even gets to medical school. This further militates against the substitution of this program for the health professions student assistance programs under discussion today.

Therefore, the need for substantially raising the levels of support in the President's budget for the health profession scholarship and loan programs, is clearly urgent; otherwise there arises the real danger that opportunities for medical education will be limited to those who can afford the high costs involved or bear the burden of borrowing in an inflationary expensive capital market, or yet to those very few needy students who can meet the eligibility requirements for the limited amount of money available under government loans and subsidies. As a result, a great number of potential students from middle-class families will, for the most part, be excluded. In the past, medical schools have been able to admit the most qualified applicants regardless of socio-economic backgrounds. Now schools are being increasingly forced to use another admissions criterion—the ability to pay for one's own education.

We therefore urge, that the Committee recommend appropriation of the full authorizations for the Loan and Scholarship Programs and emphasize that these funds be administered to serve all needy students in the interest of assuring full representation of all Americans in medical school classes without the use of income limitations or other arbitrary devices that would have unavoidable discriminatory effects upon the medical schools' student body. An investment in human beings which allows them to work up to the limits of their intellectual potential, without reference to their ability to pay, is clearly a most worthwhile and essential national expenditure.

NATIONAL LIBRARY OF MEDICINE

The advance of medical education and research, and particularly the improvement of medical care and health services are heavily dependent upon the prompt and accurate communication of the latest scientific information stored in such a way as to allow for easy access by the entire biomedical and health community.

The National Library of Medicine and its programs stand at the center of this process. The enormous collection of medical writings held by the Library, its world-wide acquisition program, coupled with its bibliographic activities, notably the Index Medicus and MEDLARS, constitute the basic intelligence process of medicine not only for the United States but for the world medical community.

The influence of the National Library has been greatly extended through its grant program, which constitutes a key component in the continued growth of medical-library capability and resources throughout the nation. A new and exciting program of the National Library of Medicine is the development of a biomedical communications network through the Lister Hill National Center for Biomedical Communications. This program is aimed at linking all medical information sources across the nation through a system of modern communications and computer technology in a way as to permit a more complete sharing of theoretical knowledge and technological know-how. This system, not only promotes the best in medical education, research, and service but through the elimination of overlap and duplication of effort, makes possible substantial savings in money and utilization of manpower and facilities. Expanded support for this program would bring to American medicine the full benefit of contemporary information handling and communications technology.

A major setback in the development of the extramural programs of the NLM is the absence for the second year in a row of any budget request for the construction of library facilities. This is a grave loss for American medicine. In the midst of the information explosion, the failure to provide for an adequate framework of medical library facilities to serve education and research needs, as well as the more pressing needs of the physician and his other partners in the health services, can only be described as shortsighted and counter-productive.

We urge the Committee to increase the funding of the grant functions of the library of medicine by at least the 6% inflation factor over the FY '69 base to fund the operations of the Library at the level requested in the budget. The funds for the Lister Hill Center for Biomedical Communications should be doubled, and the programs for construction of medical library facilities around the nation should be given the full $11 million authorized for fiscal '71 under Section 393(1) of the Public Health Service Act, as recently amended by PL 91–212.

Hill-Burton program

The rising demands for admission to hospitals and for the services provided by outpatient clinics and emergency rooms are so well known they need little emphasis to the Members of this Committee. It does seem desirable to emphasize the critical importance of a great many hospitals, such as the members of the Council of Teaching Hospitals of the AAMC, as a setting for the education of medical students, interns and residents, nurses, technologists, and therapists in a number of disciplines. Expanding the capacity of hospitals to participate in the education of these health professionals is a critical part of the national effort to provide additional health personnel. The needs of the teaching hospitals to renovate or replace existing facilities or build new ones are very great, and the cost of construction continues to rise.

We believe that the appropriation request contained in the administration budget for support of the Hill-Burton program is unrealistic. There is authorizing legislation which has been agreed upon by both bodies of Congress, titled Hospital and Medical Facilities Construction and Modernization Amendments of 1969 (H.R. 11102) that addresses itself in a more positive manner to the urgent needs for hospital facilities. We urge this Committee to appropriate the authorized amounts contained in this legislation of $402,500,000 for the Hill-Burton grant program and $6 million for interest subsidies necessary to support the $500 million loan guarantee program. The Administration request of $5 million for interest subsidies for this program is based upon their recommendation of a $400 million loan guarantee program. A portion of the $5 million would also be used to subsidize loans to publicly owned health facilities under a a new program by which the public facility would issue the obligation representing the loan back to the Department of Health, Education and Welfare, which will increase the interest rate, guarantee the obligation, and sell it to a private investor on a taxable basis. An additional $30 million as a revolving fund will be required to purchase these obligations.

HEALTH SERVICES

The whole national effort to strengthen and expand medical education and to advance scientific knowledge and capability in the medical sciences through research is meaningful only as it helps to create a body of health services which can assure that the health needs of the American people will be met; in other words, that every person will have the opportunity to achieve the maximum possible physical and mental well being. The academic medical centers and teaching hospitals are an integral part of this process. Beyond their traditional role of training health manpower and conducting research, the medical schools through their teaching hospitals, clinics and medical care programs, are now involved directly in the community health scene. A major part of this involvement is centered around the delivery of health services; as noted in the earlier part of this statement, a significant proportion of all health services rendered in this nation is provided through these teaching facilities.

Medical centers and their affiliated teaching hospitals, are coming increasingly to play a role in the development of new methods and arrangements for providing medical care and health services. Their participation in the establishment of the neighborhood health center is only one instance of this activity. In addition to these activities, academic medical centers have assumed broad responsibilities in the area of continuing education and the on-going effort to improve the quality and scope of community health services.

These functions of the medical center are dependent upon the activities of Federal programs funded in this appropriations measure. Regional Medical Programs have provided the means for academic medical centers to translate the latest developments in diagnosis, therapy, and rehabilitation, as they have emerged in the academic setting, into broad applications on the community scene in such a way as substantially to diminish the toll taken by the major chronic diseases.

Comprehensive Health Planning has provided the framework for medical centers to participate in local and regional cooperative efforts to reap the maximum benefit from health facilities and resources and to provide for a more rational, tightly integrated structure in the delivery of community health services.

The National Center for Health Services

Research and Development has provided the leadership and support to extend the same kind of scientific approach to the problems of health services which has already been so successful in advancing the scientific understanding of disease, life processes, and therapeutic possibilities.

The programs of the National Institute of Mental Health have permitted academic medical centers to expand their capability in dealing with the acute problems of the mentally ill and to participate more fully in community efforts to understand and control behavioral problems such as drug abuse and alcoholism.

Thus, full funding for these key national programs in the health service area is essential to the nation's overall progress toward the objectives which form the basis of the national health expenditure.

SUMMARY

In this statement we have tried to identify those elements of the HEW appropriations bill before the Subcommittee which have a crucial impact upon the further development of medical education, medical research, and our national effort to improve health services. In the face of these great needs, we have urged a series of specific actions of the Subcommittee to take.

In summary, we urge that appropriations for the programs supporting the construction of health professions, teaching, research, and library facilities be funded at the full level of their authorizations. In like manner, we urge that the programs supporting institutional and special project grants for health professions educational institutions and for student assistance in the health professions area be allowed full authorizations. In respect to medical research, we have urged that the Subcommittee use Fiscal Year 1969 as a base year reflecting levels of support that were the free result of the Executive and Legislative action on budget requests and that this level be increased for Fiscal Year 1971 at a rate of 6 percent per annum in order to maintain a comparable level of research activity and offset the costs of inflation.

We have also urged full recognition of the vital part played by the programs of the National Library in medical education, research, and service; we have also stressed the innovative role and the even greater innovative potential of the Lister Hill National Center for Biomedical Communication, and have therefore advocated a doubling of its 1970 level of support. We have also asked the Subcommittee to accord full recognition of the seminal role of key programs of the Health Services and Mental Health Administration, since they constitute an indispensable component of our national effort to improve the public health. This Subcommittee's determination to meet these needs will articulate well with the unstinting effort that is being made by the nation's medical centers to serve the public demand for the realization of its medical Bill of Rights. The additional funds we request are therefore nothing less than the minimum acceptable investment in the rising stock of a healthy America.

Thank you, Mr. Chairman.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The PRESIDING OFFICER (Mr. McINTYRE). Two hours having expired the Chair lays before the Senate the unfinished business, which the clerk will state.

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

The Senate resumed consideration of the bill.

Mr. ERVIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. ALLOTT. Mr. President, I believe there is a unanimous-consent order of the Senate for the Senator from Colorado to be recognized at this time.

Mr. MANSFIELD. The Senator is correct.

The PRESIDING OFFICER. There is a previous order for the recognition of the Senator from Colorado.

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

Mr. ALLOTT. I am happy to yield.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, the following request has been cleared on all sides. I ask unanimous consent that the Senate go into executive session to consider a nomination which was reported earlier today.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER (Mr. McINTYRE). The nomination reported earlier will be stated.

U.S. CIRCUIT COURT

The legislative clerk read the nomination of William E. Miller, of Tennessee, to be a U.S. Circuit Judge, Sixth Circuit.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate resumed the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. ERVIN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from North Carolina?

Mr. ALLOTT. Mr. President, may I inquire of the Senator from North Carolina for what purpose he wishes me to yield.

Mr. ERVIN. I want to make a speech.

Mr. ALLOTT. Mr. President, I am sorry. I also wish to make a speech.

The PRESIDING OFFICER. In accordance with the previous order the Chair recognizes the Senator from Colorado.

Mr. ERVIN. Mr. President, I ask unanimous consent that I may be recognized when the Senator completes his remarks.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, I do want to bring up this matter this afternoon. How much time does the Senator request?

Mr. ERVIN. I would assume it would take me about 30 minutes or something like that.

The PRESIDING OFFICER. If there is no objection, the Chair will recognize the Senator from North Carolina at the conclusion of the remarks of the Senator from Colorado.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ALLOTT. I am happy to yield.

Mr. BYRD of West Virginia. Mr. President, I think I have cleared this request with all sides.

I ask unanimous consent that beginning at 1:30 p.m. the amendment offered by the able Senator from Colorado be temporarily laid aside for 30 minutes and that there be controlled time on the amendment offered by the Senator from New York——

Mr. JAVITS. Make it 2 o'clock.

Mr. ERVIN. Mr. President, I object, because we have another order that I be recognized when the Senator from Colorado concludes.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD of West Virginia. Mr. President, will the Senator hear me out?

Mr. ERVIN. Yes; I will hear the Senator out, but I may state that I have been trying to get the floor for several days.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ALLOTT. Mr. President, the proposition has been made that we try to take up the Javits amendment at this time. Perhaps the Senator from West Virginia (Mr. BYRD) will want to propose a unanimous-consent request. I have no objection to yielding the floor temporarily for the purpose of taking this amendment up for 30 minutes, provided I am recognized at the conclusion thereof.

The PRESIDING OFFICER. Is there objection?

Mr. ERVIN. Mr. President, reserving the right to object, what is the unanimous-consent request?

The PRESIDING OFFICER. Will the

Senator from Colorado repeat what the Chair took to be a unanimous-consent request?

Mr. ALLOTT. No; I think it is for the Senator from West Virginia to make the request. I simply said that I would have no objection to yielding the floor temporarily for such a request and the granting of it.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, beginning now, there be a time limitation of 30 minutes on the amendment offered by the able Senator from New York (Mr. JAVITS), the time to be equally divided between the author of the amendment (Mr. JAVITS) and the majority leader or whomever he may designate, and that at the close of the 30 minutes there be a vote on the Javits amendment, with the further understanding that the amendment offered by the senior Senator from Colorado be laid aside during that time, and that immediately following the remarks of the able Senator from Colorado, the able senior Senator from North Carolina (Mr. ERVIN) be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, if the Senator will yield, I would like to have a quorum call, either now or at the end of the debate, so I can have the yeas and nays ordered.

Mr. BYRD of West Virginia. The Senator can have them ordered now.

The PRESIDING OFFICER. That right exists.

Mr. ALLOTT. Mr. President, reserving the right to object, I think I am correct in saying that the yeas and nays may not be requested while this present unanimous-consent request is pending. I just want to be sure that part of the understanding is that I have the right to resume the floor after that.

The PRESIDING OFFICER. Under the agreement proposed, the Senator from Colorado would have that right.

Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The Chair will first ask the clerk to state the amendment.

The legislative clerk read the amendment, as follows:

On page 5, between lines 17 and 19, after the language added by amendment No. 708, insert the following new sentence:

"Nothing contained in this section shall be deemed to impugn the Constitutional powers of the Congress including the power to declare war and to make rules for the government and regulation of the Armed Forces of the United States."

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Mr. President, the amendment basically to reserve without prejudice the powers of the Congress as they are set forth in the Constitution. I would like to read the words of the Constitution into the RECORD, because I think that is the way in which to make my purpose very clear:

The war powers of Congress are specified in section 8 of article I. The critical powers, which I feel are most pertinent to this debate, are as follows. First:

To declare War, grant Letters of Marque and Reprisal and make Rules concerning Captures on Land and Water.

Second, Mr. President:

To make Rules for the Government and Regulation of the land and naval Forces.

Those are the particular powers to which my amendment refers. There are other, equally important powers in this section of the Constitution. My amendment makes reference to all of them. It singles out these two because, I feel, they are most pertinent to potential adverse interpretations of the language of the Byrd amendment.

I am deeply indebted to my legislative assistant for foreign policy, Peter Lakeland, who has been indispensable in the development of this thinking.

My amendment comes in response to the contiguity of the Byrd amendment and the amendment of the distinguished majority leader, and the possible prejudice impact of that cumulative language.

It will be remembered that the majority leader's amendment read:

Nothing contained in this section—

That is the famous Cooper-Church amendment—

shall be deemed to impugn the Constitutional power of the President as Commander in Chief.

I supported that, Mr. President, because I thought that the President was entitled to that, in view of the rather new exercise of the power to limit his actions in Cambodia through the use of the appropriations power.

Then, Mr. President, the language of the Senator from West Virginia (Mr. BYRD) came along, and that said:

including the exercise—

The word "including" is very important—

of that constitutional power which may be necessary to protect the lives of United States armed forces wherever deployed.

I found that idea appealing at first glance as did many Members of the Senate. However, I thought more, and voted against the amendment.

On deeper reflection, I was very deeply troubled by what I considered to be our moving into yet another field, which was to define what the Commander in Chief's power meant, because we were not at the same time defining what the power of Congress meant. Also, by saying what it does, that is, recognizing, an authority of the President to protect the lives of U.S. forces wherever deployed, I thought, we were again writing a blank check. The language certainly left too much open to the President, in terms of defining his authority as broadly as he saw fit.

The Senator from Arkansas (Mr. FULBRIGHT) was, I think, quite right when he said, "This is like Gulf of Tonkin; it looks good; it is appealing. You find it difficult to vote against it. And yet, when you read it literally, it worries you, just as Gulf of Tonkin did."

The President, under Gulf of Tonkin, was given the authority to use the Armed Forces of the United States open-endedly and pretty much as he chose in Southeast Asia.

As I pointed out in discussing it in the debate here awhile ago with the Senator from West Virginia and with others, it is not the fact that I question the duty of the Commander in Chief "to protect the lives of U.S. Armed Forces wherever deployed." Of course the Commander in Chief has that duty, as does the commander of a company or a squad.

But, Mr. President, it is the question of no ceiling on the exercise of this duty that has worried me so much. Is there any? Or can a President, simply by getting himself into a situation "designed to protect the lives of U.S. Armed Forces wherever deployed"—and remember we have forces deployed virtually everywhere—do whatever he thinks fit, with no checks or balances? When he gets into such a situation, as I said a minute ago, "At what cost, Lord, and how long?" Is there any limit at all?

The whole system of our Government is designed the other way—the whole historic system of checks and balances. And, the most careful, explicit, and detailed checks on the Executive written into the Constitution are those dealing with the war powers.

If Congress would utilize its constitutional powers, it could impose a ceiling in time, a ceiling in treasure, through the appropriations power.

The Congress has many other powers under the Constitution. I feel that if we are going to make special reference to his duty as Commander in Chief to protect the lives of U.S. Armed Forces wherever deployed, we must say that Congress by so stating is not defining away its own powers.

Mr. President, I hope very much that we will define these congressional powers. I detect a real feeling in this Chamber in favor of that objective. This, too, may involve tremendous debate, but it will be a historic point of departure for our country. And it will be a historic point of departure in world history, because the tragic history of our world has been drenched with blood by wars made by rules rather than by peoples, and, that is really what we are trying to cope with in invoking these constitutional powers.

So, Mr. President, all that my amendment seeks to do—as I developed in the colloquy with the Senator from Iowa (Mr. MILLER), the Senator from West Virginia (Mr. BYRD), the Senator from Kentucky (Mr. COOPER), the Senator from Illinois (Mr. PERCY), and many other colleagues, with the fine statement of the Senator from Idaho (Mr. CHURCH)—is to make it clear that the definition, in practice under contemporary conditions, of the respective war power is a task which remains to be faced. It must be faced without prejudice to the powers of either side.

I thought that the Byrd amendment language, if left unbalanced, might be prejudicial.

I felt that if we tried in any way to qualify what Senator BYRD has written, we could be in worse trouble. So the best way to do it is simply, for the present, to reassert and reserve without prejudice the constitutional power we have; to state explicitly that we have given none of it away by virtue of what we said in the Byrd amendment.

We will come, in my judgment, to the ultimate decision as to the delineation of the respective war powers, how they should be defined, and what we do in the modern day, when it may be unwise, in juridical and in policy terms, to declare war. The Constitution does not give us clear guidance as to how this should be done, in our present circumstances.

Soon we must face the task of redefining—or defining, because we have never defined them before—what powers are the powers of the Commander in Chief, what powers are the powers of Congress, where one stops and the other begins. I have introduced a bill, S. 3964, which could do this—in a way I feel satisfactory to all sides. In the meantime, we must at least preserve the situation unimpaired, unprejudiced by anything which we may do while we find our way out of the immediate emergency, which is the Vietnam war.

That is the purpose of this amendment. It has no other purpose, I hope very much that, as apparently is the case, it will find general favor with the Senate.

Mr. CHURCH. Mr. President, I, too, hope that the amendment offered by the distinguished Senator from New York will find unanimous favor with the Senate today. I could not vote against it, because a vote against it would be a vote against the Constitution. I could not vote against the Mansfield amendment, as modified by the Byrd amendment, because I believed a vote against it would be a vote against the Constitution.

Inasmuch as we chose to adopt the Mansfield-Byrd amendments, we should proceed, in the interest of balance, to adopt the Javits amendment, thus giving explicit recognition to the fact that the Constitution does confer certain powers upon the Presidency and certain powers upon Congress when it comes to warmaking.

As the Senator from New York has pointed out, Congress should proceed, in the coming months, to a more precise definition of these powers. As for now, however, I am happy to see that the Senator from New York has proposed this amendment. It brings back into proper equilibrum our consideration of the Cooper-Church amendment.

As originally proposed, the Cooper-Church amendment was not to define the warmaking powers of Congress, whatever they may be; nor was it to define the powers of the President as Commander in Chief, as conferred upon him by the Constitution. The purpose of the Cooper-Church amendment, from the beginning, was to assert a certain power that everyone recognizes belongs to Congress. The Cooper-Church amendment was to impose certain limitations upon the use of public money. No one argues that the President can spend public money in ways which Congress prohibits. I do not know why this should be such an obscure point.

If, for example, the Constitution conferred upon the President the right to occupy the White House, then it would follow that Congress could not deny the President occupation of the White House. Yet, it does not follow that the President could then pay, with public money, all the bills associated with the heat, the lights, the servants or the gardeners, unless Congress chose to furnish the public money with which to do so.

Such is the case with Cooper-Church amendment. Looking explicitly to those powers that belong to Congress alone, we have said that on and after July 1, 1970, no public money shall be available in this or any other act for the purpose of retaining American forces in Cambodia, for the purpose of furnishing American advisers or instructors to Cambodian forces, for the purpose of hiring and paying for mercenaries to fight for Cambodia, or for the purpose of engaging in combat activity in the air above Cambodia in support of Cambodian forces. What could be clearer than that?

The money is simply not available, unless it be contended that the President has inherent powers to spend public money regardless of limitations imposed by Congress. This is a proposition that no constitutional authority, certainly no Senator, has stood for at any time durnig the debate. Perhaps we can return to the real substance of the Cooper-Church amendment, which remains untouched. The four substantive provisions of the Cooper-Church amendment are the same now as they were on the day the amendment was brought to the floor of the Senate 7 weeks ago.

There has been much confusion, much distortion, and much beclouding of the issue. Ambiguity and subtlety usually accompany constitutional discussion. However, the substance of the amendment remains unimpaired, and I hope that this will be clear, when we come to a final vote next week. We are engaging in the exercise of a power that belongs exclusively to Congress—the power to determine how and under what circumstances public money will, or will not, be spent; the power to prohibit the expenditure of public money for certain purposes.

These purposes, of course, are well known. Our objective is to set the outer limits, by pulling tight the purse strings against the creeping involvement of American forces in a widening war in Indochina. We permit the current operation in Cambodia to be completed, after which we provide that no public money will be available for the particular activities that are specified in the amendment, the kind of activities that drew us, step by step, into the bottomless morass in Vietnam.

We do not want Cambodia to become another Vietnam; we do not make public money available for that purpose. We say, in effect, to the President, "If you want to send American forces back into Cambodia, opening up a new front there; if you want to send them back in force for any protracted period of time; if you want to send American military advisers into Cambodia; if you want to hire mercenaries to fight for Cambodia; or if you want to engage the United States Air Force above Cambodia in support of Cambodian forces—if you want to take any of these steps which we think will entangle the United States in a new war on a new front in Southeast Asia, then you must come back to Congress and make your case. You must ask Congress to lift the limitations that are imposed by this amendment."

I am very happy that the distinguished senior Senator from New York helps to place this whole picture in proper balance again. I hope the Senate will adopt his amendment, as it has adopted the Mansfield-Byrd amendments. We can, at last, proceed to a final determination of the real question on the substance of the Cooper-Church amendment.

Mr. JAVITS. Mr. President, I thank the distinguished Senator from Idaho. I should like the RECORD to show that I hope the amendment will be referred to as the Javits-Mansfield amendment.

Mr. MANSFIELD. I am deeply honored, because I think it should be known as the Javits amendment.

Mr. CHURCH. Mr. President, I yield 3 minutes to the distinguished Senator from Arkansas, chairman of the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, I wish to pay my compliments to the distinguished Senator from New York for having thought of this language which I think puts the Byrd amendment into proper perspective. I am one of those who were extremely disturbed about the way the Byrd amendment would be ultimately interpreted. There were those who believed it would have no effect at all; that it was an innocuous repetition of what was obvious. But having seen how other laws or resolutions have been distorted in the past, and taking into consideration the circumstances of its attachment to the Cooper-Church amendment. I was extremely disturbed about it, as I expressed the other day.

So it gives me a great deal of satisfaction to see that the Senator from New York has brought in this additional amendment, which restores, I think, the balance between the legislative and executive branches, just as was contemplated by the Constitution itself.

As so often happens, if we carry on a debate long enough in this body, no matter how confused the discussion may at times become, sooner or later some Senator out of the 100 will have an inspiration that will find a way to clarify the situation. I think the Senator from New York has done that in this case.

He has stated what is obviously true—that we do not intend to impugn the proper role of the Senate in our constitutional system, a role the Senate sought to reaffirm last year when it passed the commitments resolution. Nearly everything we have done in the past year or

so in this area has been a groping by the Senate to try to reestablish a balance in our constitutional system.

To digress a moment, it seems to me that the continual prosecution of war is absolutely antithetical to the preservation of a democratic system. I do not believe that we can preserve our democratic system if we continue to wage war around the world.

War is not compatible with democracy. I think that should be obvious from what is happening to this country. Most of the world today is ruled by military or other forms of dictatorships. As a matter of fact, it is doubtful that they can be ruled more satisfactorily in any other way. I sympathize with rather than criticize them for it because I do not think countries that have recently changed to military governments in a world dominated by huge military establishments can possibly make a democratic system function. Democracy flourishes only under peaceful conditions. The thrust of the Cooper-Church amendment and some of the other pending amendments is to hasten the reestablishment of peace. I think that is essential if we are to preserve our democratic system.

There are many ominous signs creeping into our national dialog these days. This morning in the Washington Post there are extensive extracts from recent statements of the Vice President. The Post likens him to a former Member of this body. I do not think that is a correct analogy. The Vice President is not a member of the legislative branch. Senator Joseph McCarthy was one of 100 Senators. While he could cause a great deal of consternation and unhappiness by his words, he was not a member of the executive branch and he did not speak for the real executive power in this country that could actually intimidate and directly control our citizens, or our business enterprises. There is a vast difference between the Vice President and Senator Joseph McCarthy. Vice President AGNEW speaks for the executive. He speaks for "the" executive power—the power backed by the FBI, the Department of Justice and all the courts and marshals of this land, and above all by 3½ million men armed by the most powerful weapons ever devised by the human mind and a vast technological establishment.

Speaking as he does as a member of the executive it is a far more dangerous situation, than when any Member of the Senate speaks or even has a hearing. What can the Senator do. The role of the Vice President is more reminiscent of Dr. Joseph Goebbels in the thirties than of Joseph McCarthy in the fifties, because he speaks for a different branch of Government than did McCarthy. It is a very dangerous way to approach public affairs if we wish to preserve our democratic system. Heavyhanded threats by members of the executive is not conducive to freedom of speech, free debate, or in short to the practice of democracy.

I believe that the amendment offered by the Senator from New York will put back into its proper perspective insofar as this bill is concerned the relative powers of the executive and the legislative.

I was deeply disturbed about the possible—and probable, I believe—interpretation of the Byrd amendment. The apparent acceptance of the concept that the Commander in Chief has all the power he needs without the approval of Congress to do anything he likes with our military forces, which now number some 3½ million men. To me, that would mean the end of our constitutional system, if it should be carried out to that extent.

I do not say that the sponsors intended it to be interpreted that way, but this sudden and almost unanimous flocking to the concept that the Commander in Chief can do anything he likes to protect our soldiers, wherever they may be, and that he can deploy them wherever he wishes—they are already deployed all over the world—leads to the conclusion that there is no practical limit to what he might do on his own initiative without consulting Congress.

I reject that view and I believe it is contrary to the Constitution.

There was even an intimation that it would be improper for the Senate to withhold any funds from him.

Accordingly, Mr. President, I congratulate the distinguished Senator from New York on his constructive amendment.

Mr. JAVITS. I thank the Senator from Arkansas.

Mr. President, I yield the remainder of my time to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. MCINTYRE). The Senator from New York has no more time remaining. The Senator from Idaho has 5 minutes remaining.

Mr. CHURCH. Mr. President, I yield the remainder of my time to the Senator from West Virginia.

Mr. JAVITS. Mr. President, would the Senator from Idaho save 1 minute for the Senator from Colorado?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be 1 additional minute allotted to the Senator from Colorado.

The PRESIDING OFFICER. Without objection, 1 additional minute will be allotted to the Senator from Colorado.

Mr. BYRD of West Virginia. Mr. President, the war powers are shared by the President as Commander in Chief and the Congress.

Those war powers are set forth, insofar as the President is concerned, in paragraph 1 of section 2 of article II of the Constitution of the United States.

The war powers of Congress are set forth in paragraphs 11, 12, 13, 14, 15, 16, and 18 of section 8 of article I of the Constitution of the United States.

Mr. President, the Byrd amendment dealt only with the war powers of the President.

The Mansfield amendment recognized that nothing in this section—meaning section 47 of the bill—shall be deemed to impugn the constitutional powers of the President as Commander in Chief, period.

The Byrd amendment not only went to the recognition of Presidential war powers, as the Mansfield amendment did, but the Byrd amendment also recognized the authority of the President properly to exercise those war powers, under the Constitution, as Commander in Chief.

The amendment which has been offered by the able Senator from New York (Mr. JAVITS) reasserts the war powers of Congress under the Constitution of the United States.

I shall read, in part, the verbiage of the Javits amendment:

Nothing contained in this section—

Again referring to section 47 of the Military Sales Act—

shall be deemed to impugn—

Webster defines the word "impugn" as "to assail, cast doubt upon, to question, or to deny." So, in reality, Mr. JAVITS is saying in this amendment that nothing contained in this section shall be deemed to question or cast doubt upon or to deny or assail the constitutional powers of the Congress.

What are those constitutional powers? The able Senator from New York goes on to refer explicitly to certain of those powers: He says: "including the power to declare war."

That is a reference to paragraph 11 of section 8 of article I of the Constitution.

The Senator goes on: "and to make rules for the government and regulation."

That is a reference to paragraph 14 of section 8 of article I of the Constitution. The only change made in the precise verbiage of paragraph 14 by the Senator from New York in his amendment is in the words . . . "Armed Forces of the United States."

The Constitution makes reference to "the land and naval forces."

Thus, the amendment offered by the able senior Senator from New York merely reasserts the warmaking powers of Congress under the Constitution of the United States.

There was legislative history on the Byrd amendment. I think the intent of its cosponsors was clearly expressed in that legislative history. Nowhere did any of the cosponsors of the amendment express an intent to give the President any imagined powers to enter into new commitments, to enter into any new war, or to enter into any war for Cambodia. That intent was very clearly stated by the cosponsors of the Byrd amendment.

Thus, there should not be any question about the intent of the Byrd-Griffin amendment, inasmuch as such intent was stated in the debate preceding the vote thereon.

In summation, the amendment offered by the able Senator from New York does nothing to affect the Byrd amendment, which has already been adopted by a rollcall vote. The Byrd amendment went to the constitutional war powers of the President acting as Commander in Chief.

The Javits amendment goes to the war powers of Congress as set forth in the Constitution.

So, Mr. President, I wholeheartedly support the Javits amendment. I think it does bring a proper balance to the legislative history in connection with both amendments. I support the Senator's

amendment. I hope that the vote thereon will be unanimous.

Mr. President, I ask unanimous consent, if I may do so, with the approval of the able senior Senator from New York, (Mr. JAVITS) to have my name added as a cosponsor of his amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. BYRD) be added as a cosponsor of my amendment.

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

The Chair recognizes the Senator from Colorado for 1 minute.

Mr. ALLOTT. Mr. President, in the minute I have, I want to make one or two observations. First of all, I concur with the general remarks just made by the distinguished Senator from West Virginia as to the effect of the Byrd amendment and the relation of this amendment to it.

I can support this amendment wholeheartedly. I asked for this 1 minute to explain this thought, that having done this now and reasserted the powers of each respective branch of the Government, I think it would be wise for us all to take a very good, hard look at the situation and try to avoid situations again where we have to start to try to define the powers of any department of the Government under the Constitution.

The interpretation and misinterpretation and the understanding and misunderstanding of the words can only stir up a lot of mischief which in the long run, I am sure, disturb the people of the United States as much as they disturb some Members of the Senate.

I hope the amendment will be agreed to.

The PRESIDING OFFICER (Mr. CRANSTON). All time having expired, the question is on agreeing to the amendment of the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY: I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. DODD), the Senator from Louisiana (Mr. ELLENDER), the Senator from Tennessee (Mr. GORE), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Maryland (Mr. TYDINGS), are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Texas (Mr. YARBOROUGH) are absent on official business.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER), the Senator from Iowa (Mr. HUGHES), the Senator from Washing (Mr. JACKSON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. PEARSON), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), the Senator from Ohio (Mr. SAXBE), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 73, nays 0, as follows:

[No. 181 Leg.]

YEAS—73

Aiken	Fannin	McIntyre
Allen	Fong	Metcalf
Allott	Fulbright	Miller
Anderson	Gravel	Moss
Baker	Griffin	Muskie
Bellmon	Gurney	Nelson
Bennett	Hansen	Packwood
Bible	Harris	Pastore
Boggs	Hart	Pell
Brooke	Hartke	Percy
Byrd, Va.	Hatfield	Proxmire
Byrd, W. Va.	Holland	Randolph
Cannon	Hollings	Schweiker
Case	Inouye	Scott
Church	Javits	Smith, Maine
Cook	Jordan, N.C.	Spong
Cooper	Jordan, Idaho	Stevens
Cotton	Kennedy	Symington
Cranston	Long	Talmadge
Curtis	Magnuson	Thurmond
Dole	Mansfield	Williams, Del.
Dominick	Mathias	Young, N. Dak.
Eagleton	McClellan	Young, Ohio
Eastland	McGee	
Ervin	McGovern	

NAYS—0

NOT VOTING—27

Bayh	Jackson	Russell
Burdick	McCarthy	Saxbe
Dodd	Mondale	Smith, Ill.
Ellender	Montoya	Sparkman
Goldwater	Mundt	Stennis
Goodell	Murphy	Tower
Gore	Pearson	Tydings
Hruska	Prouty	Williams, N.J.
Hughes	Ribicoff	Yarborough

So Mr. JAVITS' amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado (Mr. ALLOTT) is recognized.

Mr. ALLOTT. Mr. President, I yield to the majority leader.

ORDER FOR ADJOURNMENT TO MONDAY, JUNE 29, 1970, AT 9 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 o'clock Monday morning next.

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

ORDER FOR RECOGNITION OF SENATOR PELL ON MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the disposition of the Journal, the distinguished Senator from Rhode Island (Mr. PELL) be recognized for not to exceed 40 minutes.

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

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO ON MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the remarks by the distinguished Senator from Rhode Island (Mr. PELL), the distinguished Senator from Ohio (Mr. YOUNG) be recognized for not to exceed 20 minutes.

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

ORDER FOR RECOGNITION OF SENATOR MATHIAS ON MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the remarks of the distinguished Senator from Ohio (Mr. YOUNG), the distinguished Senator from Maryland (Mr. MATHIAS) be recognized for not to exceed 20 minutes.

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

ORDER FOR RECOGNITION OF SENATOR BYRD OF WEST VIRGINIA ON MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the remarks by the distinguished Senator from Maryland (Mr. MATHIAS), the distinguished Senator from West Virginia (Mr. BYRD) be recognized for the calling up of the conference report on the supplemental appropriation bill.

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

LIMITATION OF DEBATE ON CONFERENCE REPORT ON THE SUPPLEMENTAL APPROPRIATION BILL

Mr. MANSFIELD. I ask unanimous consent that at that time on the consideration of the report—and this has been cleared, I believe—there be a limitation of time of 30 minutes, to be divided equally between the minority leader and the manager of the bill (Mr. BYRD of West Virginia).

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. Under the previous order, the Senator from Colorado is recognized.

Mr. ALLOTT. Mr. President, we are nearing the end of a long and important debate. This debate has been very thorough, as befits a debate that concerns issues of constitutional importance. Further, this debate has aroused strong passions on all sides. This, too, is fitting and proper.

We are dealing with the question of how to achieve what we all consider the most precious and most fragile thing which government can provide—stable and honorable peace. We would do no credit to our convictions, or to ourselves, if we did not invest our debate with a vigor appropriate to important discussions.

This debate has generated heat, and that is not bad, especially because this debate has also generated light on great issues. I, for one, have profited from a very gratifying series of letters from scholars who have been anxious to share their reflective judgments on the various issues we have been confronting.

It is very important that we understand the nature of the issues that are in dispute. There are really two kinds of issues.

On the one hand, we are dealing with constitutional issues. We are debating some measures which would make serious changes in the settled and proven role of the Commander in Chief. On this issue there are deep and serious and sincere disagreements. We cannot and should not ignore these disagreements.

But it is important to note that these deep disagreements have been revealed only because of a current disagreement about one part of American foreign policy in one section of the world. That is, we would not be engaged in this thoughtful debate on constitutional questions were some Members not deeply disturbed by the President's current approach to disengaging the Nation from the long war he inherited a year and a half ago.

There is a curious irony here. It is rare that Senators become so deeply divided on constitutional issues. Yet the current deep division stems from a relatively minor disagreement over means to an end.

Let us be very clear about this. One hundred U.S. Senators long for peace. They share with the President an intense desire to free American men from dangerous service in Vietnam. The differences that divide us are real enough, but they concern questions of means.

Still, these are very important questions and it is important for us to demonstrate that we can cope with them. It is important because frustration sometimes manifests itself in severe criticism of our governmental processes.

There are those who say that the American system does not work. They are alienated from the national political process for two reasons.

First, they say the institutions of the Government are unresponsive to the desires of the people.

Second, they say that the men who hold office in the institutions are inclined to place their own political interests over the national interest. They argue that the men in political offices at the national level are frequently more interested in advancing their private political fortunes than they are in advancing the public good.

Now let me be very clear about one thing. I think both of these contentions are absolutely wrong. I think the people who make such allegations are grievously mistaken. They are sadly underestimating the vitality of our institutions and the high dedication of the men in high public office. In addition, those who make such allegations against the men in public life are really making a severe and unfair accusation against the American people. They are saying that the American people elect bad men and tolerate inferior institutions.

Mr. President, I disagree with all of this. But I do not disagree with the fact that there is a significant minority among the young who do endorse these important misdescriptions.

Therefore, I think it is in the interest of the whole Nation that we demonstrate our responsiveness to large public concerns. We must demonstrate that there is more to our pronouncements than rhetoric. We must demonstrate a willingness—indeed a desire—to come to grips with matters that are complex and controversial.

Mr. President, that is what we should do. It is equally clear what we must not do. We must not appear to be dallying on great issues. We must not appear unwilling to confront the great on which we speak with most fervor. We must not allow a widening gap between our rhetoric and our performance. Most important of all, we must never do anything that would make it appear that we were holding up Senate business for private political profit.

Mr. President, I am confident that no Senator would contemplate holding up any Senate business for reasons of private political aggrandizement. Further, I am doubly confident that no Senator would allow private political considerations to make him reluctant to take up a piece of business which he considers of maximum importance.

I am even more confident still that no Senator would allow private considerations to control his readiness to consider a piece of important business when that Senator feels very strongly that there is a crying need to demonstrate to the young—the skeptical young who are watching us so closely—that we are ready to stand up and be counted on the issues of burning importance.

If we do not allow the pending amendment—the McGovern-Hatfield amendment—to come to a final vote—up or down—it seems to me that we encourage some persons to make false, but damaging and harsh judgments, about the ability—or willingness—of the Senate to respond in times of crises. If we fail to respond in moments like these we do nothing more than encourage frustration and cynicism among larger and larger segments of the national community.

Mr. President, despite what has been said on this floor these last few days, I do not think there are any cynical Senators. I am confident that only exhaustion, or the inevitable passion that accompanies a great debate, could lead one Senator to accuse other Senators of being cynical. I only hope that this sort of unfortunate lapse from courtesy will not incline the watching young people to ignore the generally high level of this vital debate.

More important, I hope that charges of cynicism do not encourage the young to look for cynicism in our dealings. I must speak frankly about my fears in this regard.

I am afraid that many of the young people who are watching the Senate may be very puzzled, indeed, if we terminate the current debate about Vietnam without giving comprehensive consideration to all relevant measures. This is especially vital in light of the fact that some of the relevant measures have attracted so much attention among the young. Moreover, some of these relevant measures have been backed by the energetic support—and the moneys—of citizens both young and old.

I do not think these measures are wise. Nor do I think they are backed by anything like a majority of the American people. On the contrary, it is clear that the majority of the American people support the President's disengagement policy and they endorse the traditional understanding of the broad powers attaching to the office of Commander in Chief—and, I might say, the powers of Congress as well. But one thing is clear. These sincere and honorable citizens have a right to expect that the measures they have so energetically and generously supported—and I am speaking specifically about the so-called McGovern-Hatfield amendment—will receive our prompt attention as integral parts of our systematic review of American policy on this bill.

Any failure to do so at this time would encourage several thoughs about cynicism. It would encourage some people to become cynical about the ability of Congress to engage in useful and orderly and comprehensive discussions of foreign policy. Obviously if Congress cannot do this, then it can have little role in the setting of such policy. Thus if we fail to act now on all relevent measures, we will weaken the credibility of Congress.

Second, if the amendment I proposed is not allowed to be voted up or down, many citizens—young and old—who are watching us now will conclude that there are some persons who do not want the Senate to make its feelings known. This will puzzle and sadden them. And it will be especially puzzling when they notice that some persons who favor passing this measure do not want to allow it to come to a vote.

Mr. President, I am afraid that their puzzlement may give way to cynicism, and even to anger, when they realize that some of the persons who will not let this matter come to a vote are per-

sons who just find it inconvenient to vote right now. And I am very worried lest they make a judgment—a judgment I think is quite false—that these people oppose a vote now because it would disrupt a conspicuous and successful drive for financial support.

To discourage such cynical judgments, and to demonstrate to the young our willingness to stand up and be counted, I hope we will all vote our convictions on this matter. I hope the Senate will vote to kill the amendment, and decisively defeat the amendment which I have offered.

Mr. President, I should like to say an additional word. I have before me a UPI news bulletin. I shall quote from it in part, but first I ask unanimous consent that the entire dispatch be printed in the RECORD.

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

UPI NEWS BULLETIN

The Senate put off a vote until 1 p.m. Monday on the Allott amendment. At that time, opponents of the war will offer a motion to table it.

McGovern said there was no chance he and other sponsors of the original end the war amendment would let the Allott copy come to a vote Monday. He said he expected the tabling motion to be approved since many Senators on both sides of the issue do not want a vote now.

McGovern again attacked Allott's maneuver, calling it a "cynical power play" and warning that it would feed the doubts of student dissenters about the workability of the democratic system.

Mr. ALLOTT. Mr. President, I read, in part, from the bulletin:

McGovern again attacked Allott's maneuver, calling it a "cynical power play" and warning that it would feed the doubts of student dissenters about the workability of the democratic system.

Mr. President, it is exactly this point to which I have addressed myself this afternoon. It has been said by proponents of the McGovern amendment that they want to offer it to the military procurement bill, and that I have been indulging in some kind of political hanky-panky on the floor of the Senate.

First, I quoted from the RECORD yesterday three instances—I could have quoted a couple of dozen—in which this kind of action has been taken, not only by the senior Senator from Vermont (Mr. AIKEN), but also by the distinguished majority leader (Mr. MANSFIELD). I recall also that it was done by the late Senator Dirksen and many other leaders in the Senate.

A point I want to make is that I hope that whoever reads this statement will be clear that if there is justification for attaching this amendment to any bill at all, or choosing one bill over another, it does not lie to the military assistance bill; it does not lie to the military construction bill, to which its proponents say they want to attach it; but it probably lies as much to the defense bill. It lies either to the defense bill or to this very bill.

This amendment overhangs the conscience and the emotions of the people of the United States. This amendment has caused disruption in the United States. It misleads our enemy. It misleads him as to our purposes. Let no one make any error about it. There will never be any meaningful negotiations in Paris so long as an amendment of this type hangs over the heads of the U.S. Senate and, indirectly, over the heads of the people of the United States and over the powers of the President to disengage us from a very, very distasteful war, a war from which he would like to disengage himself as much as any other citizen of the country does.

Mr. YOUNG of North Dakota. Mr. President, will the Senator from Colorado yield?

Mr. ALLOTT. I am happy to yield to the distinguished Senator from North Dakota.

Mr. YOUNG of North Dakota. Mr. President, I commend the distinguished Senator from Colorado for bringing this issue to a vote. Our Nation has been badly divided, and it is becoming increasingly so, over the war in Vietnam.

The longer an amendment like this is pending in the Senate, the more our people will be divided. It is time that the Senate took a position on this question, so that the people of the country and the people of the world will know what the position of the U.S. Senate is.

I was opposed to our getting into this war, and I spoke out against it long ago. I do not believe we can set a date certain when we are going to get out of this war, and expect our enemies to negotiate either for a satisfactory end of the war or for the release of our more than 1,500 prisoners.

Mr. President, I ask unanimous consent to have printed at the end of my remarks a news report to the people of my State, explaining why I am opposed to this type of resolution. The report contains quotations of mine over the last 16 years in opposition to a war in Indochina. I particularly want that part included, which gives my reasons against setting a date certain as to when we must be out of Vietnam. Some persons now paint me as a war hawk, when my whole record has been the opposite. My thinking as to getting involved in this war remains the same—I differ with many though as to how we get out.

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

ON CAPITOL HILL WITH SENATOR YOUNG—A PERSONAL REPORT TO THE PEOPLE OF NORTH DAKOTA

Everyone wants to end the war in Vietnam and bring our troops home at the earliest possible time. The only difference of opinion is how to do this.

Unfortunately, two former Presidents and other national figures mistakenly thought that we could win a decisive military victory in a matter of just a few months by use of American troops and with little help from the South Vietnamese army. Many of the same people who supported our involvement in South Vietnam have now completely reversed their position. They not only want to get out right away, but they want to set a specific date by which all of our troops must be out. Setting a specific date would, to me, be unwise. Knowing this, the enemy would certainly fight on at all costs until that date and would have little incentive to negotiate a settlement or do anything about releasing our more than 1500 prisoners.

I want to get out of this war, too, and at the earliest possible time. It is my hope that, after all our great sacrifices in blood and money, we will not just walk away from this war when there now is a good opportunity to salvage something from it.

While the Thieu-Ky government leaves considerable to be desired, it is by far the best that South Vietnam has had. In the past two years President Nixon's policy of helping the Vietnamese army become a strong fighting force with real confidence in its own ability has succeeded far beyond the expectations of most. President Nixon's Cambodian military operation has been very successful.

There have been many other favorable developments in Indochina in the last year, not the least of which has been the anti-Communist uprising in Cambodia. This has helped immeasurably in cutting off the source of supplies to the Viet Cong and North Vietnamese operating in South Vietnam.

President Nixon has already withdrawn 115,000 of our troops from Vietnam. With these new developments, South Vietnam is in a much stronger position to fight its own war, and now is the opportune time to step up our withdrawals. I shall urge President Nixon to accelerate our withdrawal of troops from Vietnam beyond his announced schedule of an additional 150,000 by May 1 of next year.

Because of my refusal to support legislation that would set a date certain for withdrawal—which I cannot help but feel would encourage the enemy to fight on until that date—many now are charging that I am a war hawk and not interested in ending this war. This is something I deeply resent. I spoke out against this war as far back as 1954 and many times since. This was when many of today's most vocal doves were enthusiastic supporters of this unwise venture.

Following are excerpts from several of my newsletters going back more than 16 years. These were sent to more than 50,000 North Dakotans and to the press both in North Dakota and Washington:

April 27, 1954. "We must count our foreign policy as a failure if nine years after World War II we cannot find enough people among the teeming millions of the Far East willing to fight the battle against Communist aggression. . . . I am unalterably opposed to sending our troops to another 'Hell hole' on the Continent of Asia." (This was when the French were losing their war in Indo-china.)

March 24, 1965. "It would be courting disaster to become involved in a jungle war with the hordes of Asiatic Communists in this, the most militarily untenable area in the entire world for us to fight."

June 30, 1965. "After all, it is the Vietnamese people who will have to win this war. . . . We will have to fight Communism for many years to come. The problem is so serious and the struggle so desperate that we simply cannot afford to dissipate our strength in areas such as Vietnam or the emerging nations in the jungle area of Africa."

January 26, 1966. "It is entirely possible that our forces will have to be expanded to 500,000 or possibly even more, depending on how deeply involved Communist China may become in this war. (This was at a time when we had 200,000 troops in Vietnam.) . . . There is probably no place in the world where the Communists have more advantages and we more disadvantages. This is one of the reasons why I was opposed to becoming involved in this jungle war. We must oppose the spread of Communist aggression, but I have always strongly felt that, with our limited manpower and financial resources, we should be more selective as to whom we help and where we fight the Communists.

I have expressed my views through these newsletters and even in a personal visit with President Johnson early last year.

"I am very much opposed to the President's request for $3.25 billion more than Congress provided last year for the Great Society programs. Sacrifices will have to be made if we are to successfully prosecute this war and not have run-away inflation or excessive new taxes."

April 13, 1966. "Those who advocate that we must seek out and fight Communists in every rathole in the world should consider what importance it may have to our own national security, the cost involved, and our limited manpower and economic resources."

February 7, 1968. "Our role in trying to police the entire world is getting us more deeply and seriously involved, and particularly in Southeast Asia and Korea. . . . Our military force there is one of the best the United States has ever put on a battlefield. They are doing a superb job under impossible circumstances. As important as the bombing is, this war will have to be won on the ground in the jungles of South Vietnam. Our peace offensive has not been as aggressive or as effective as our military efforts. While I was strongly opposed to our involvement in this war, I am not one who believes we can just walk away from it."

Mr. ALLOTT. Mr. President, I thank the distinguished Senator from North Dakota. It is a fact that his record is as he has stated. Having served with him on the Subcommittee on Defense Appropriations, I know that that is a fact.

The point he makes is true. So long as the McGovern resolution overhangs the Senate and the people of the country, we will never be able to negotiate seriously in Paris. By not acting on the resolution—and this is the reason I have called it up in the manner in which I have—we are saying to the North Vietnamese and to the National Liberation Front, if we adopt this amendment, "All you have to do is wait until 1970. You will not have to do anything; just sit awhile; we are going home. Then you can rush in and do as you please."

It is not likely that a boxer in the ring would tell his opponent that he was going to punch him in the nose with a left hook. One does not box that way.

When we are dealing with American lives, it is necessary to use all the strategy and acumen possible. I am sorry to say that relatively few Members of the Senate understand the oriental mind, understand the brilliance of their strategy—and it has been brilliant—and how the failure to appreciate it and meet it has led us to our present state of affairs.

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

Mr. ALLOTT. I am glad to yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I commend the distinguished Senator from Colorado and support the action he has taken. The offering of the Allott amendment is an important step in the efforts to insure that the Senate will take a public position on the war in Southeast Asia.

It is impossible for me to determine what position the Senate will take. I do know that the Members of this body have deeply held and widely differing views regarding policies in Southeast Asia. But any power which the Senate may have over foreign relations is the power of the full Senate. It is not the power of any individual Member, group of Members, or particular committees. Therefore it is important that the position of the full Senate regarding foreign policy be expressed.

In the years I have been in the Senate, I have never questioned the sincerity of a Senator's position or attempted to impugn the motives of a Senator. While I disagree strongly with some of my colleagues concerning the war in Southeast Asia and have stated so publicly, I have on numerous occasions expressed my high esteem for the consistent position of many Senators with whom I disagree. I would hope that they will likewise respect the sincerity of my beliefs.

I was not a Member of Congress in 1964, when the Senate passed, with only two dissenting votes, the Gulf of Tonkin resolution in response to the President's call. Since I became a Member of the Senate, many Senators have called on the Senate to more positively exert its constitutional powers over foreign affairs. I do believe that the Senate should exert its constitutional powers just as I believe the President should be permitted to exercise his constitutional powers in an effort to meet the responsibilities given him by the Constitution.

But the powers which the Senate can exercise over foreign affairs must be exercised in a responsible manner. The Senate must take a position. The subject cannot remain unresolved forever.

The Senate is now engaged in its sixth week of intensive debate on the subject of our involvement in Southeast Asia. Southeast Asia has been a major concern to every Member of this body for years. I know of no Senator who has treated this subject lightly and who does not devote a major portion of his time to consideration of this subject. Therefore, I can think of no better time for the Senate to stand up and take a position expressing itself in Southeast Asia.

Wednesday the distinguished chairman of the Foreign Relations Committee, in reference to the McGovern-Hatfield amendment, stated:

> Whether you are for or against it, it is a matter of great importance because it involves the war; it involves 100 deaths a week of our boys and billions of dollars in money.

Wednesday, the able junior Senator from South Dakota said we should not be "playing fast and lose with the life and death issue of this kind which involves the safety and well-being of our forces in Southeast Asia." I heartily endorse both of these statements. For that very reason the subject should no longer be postponed. We must stand up and take a position now.

Our fighting men in Vietnam are entitled to know the position of the full Senate, as voted by its Members. The people of the United States are entitled to know the position of the Senate as a body. The President of the United States is entitled to an expression by the Senate. Our allies certainly are entitled to the same. And our enemies in Hanoi and their allies should be aware of the position of the full Senate.

The action of the senior Senator from Colorado gives the Senate an opportunity to take a position. The Senate should consider all proposals regarding Southeast Asia which are now pending and take action on them. When the Foreign Military Sales Act is passed by the Senate, I would like to be able to say the Senate has considered all of the proposals and, as of that time, has reached a decision which is the official position of the U.S. Senate as determined by the full Senate, exercising the powers granted to it over the foreign affairs of the United States.

It is my earnest hope that such Senate action will put an end to speculation throughout the world as to support or lack of support in the U.S. Senate for President Nixon's conduct of the Vietnamization program and withdrawal of American forces from Vietnam. Our fighting men would know where we stand and our enemies should not be misled.

The enemy should not be permitted to pick and choose among the various statements of our public officials to find those which may be twisted to serve Hanoi's goals and then maintain that these statements represent the views of the Senate.

The Senate should express itself. The Senate now should consider all the pending proposals and I support the Senator from Colorado's courageous step to see that this is done.

I thank the distinguished Senator from Colorado for yielding to me.

Mr. ALLOTT. I thank the distinguished Senator from Wyoming for his support. I concur wholeheartedly in his views.

Mr. ERVIN obtained the floor.

Mr. BYRD of West Virginia. Mr. President, will the Senator from North Carolina yield without losing his right to the floor?

Mr. ERVIN. With that understanding, I yield to the Senator from West Virginia.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, at the request of the distinguished Senator from South Dakota (Mr. McGOVERN), I ask unanimous consent that on Monday next, at the conclusion of the remarks by the able Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota be recognized for not to exceed 15 minutes.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the remarks of the able Senator from South Dakota on Monday next, there be a period of the transaction of routine business, with statements therein limited to 3 minutes.

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

Mr. BYRD of West Virginia. Mr. President, I further ask unanimous consent that on Monday next, in the event that the morning hour of 2 hours will have expired before the transaction of routine morning business will have ended, the period for the transaction of routine

morning business may continue until closed, and that at that time—but no later than 11 a.m.—the conference report on the supplemental appropriation bill be laid before the Senate.

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

Mr. BYRD of West Virginia. We have already entered into a time agreement on that conference report.

Mr. COOPER. Mr. President, reserving the right to object—there will be a vote on Monday morning?

Mr. BYRD of West Virginia. Oh, yes. All I am saying is that, on Monday next, upon expiration of the 2 hours which will comprise the morning hour, the unfinished business not then be laid before the Senate. We have already agreed to take up the supplemental appropriation conference report on Monday morning next under a 30-minute limitation. I want to make it clear that all special orders will have expired before the unfinished business is laid before the Senate on Monday next, which will be no later than 12 o'clock noon.

The PRESIDING OFFICER (Mr. CRANSTON). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. I thank the Senator for yielding to me.

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. ERVIN. Mr. President, on May 18, I made some remarks in the Senate on the subject which has been under debate in this body for some weeks. In those remarks I detailed the circumstances of history which account for our presence at this moment in South Vietnam.

I also set forth my views with respect to the war powers of Congress and the powers of the President as Commander in Chief of the Armed Forces of this Nation.

I also set forth in detail my opposition to the Cooper-Church amendment and stated in essence that I supported the policy announced by President Nixon for the withdrawal of American forces from South Vietnam.

I do not wish to reiterate everything I said on that occasion. I do wish, however, to make my position clear on this matter.

To that end, I ask unanimous consent to have printed in the RECORD portions of my remarks on May 18.

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

In January 1969, President Johnson was succeeded in the Presidency by President Nixon. After President Nixon's inauguration, our military policy began to change, with the word "victory" being replaced by the word "Vietnamization" of the war.

With this change of policy, President Nixon assumed the delicate and difficult task of extricating the United States from the war, while saving South Vietnam from military and political collapse.

President Nixon stated his views with respect to how we can extricate ourselves from South Vietnam in a way which would be consistent with what he deems to be sound principles. As I understand the policies which he has proposed, and is attempting to follow, he is determined, if possible, to secure a negotiated settlement with the North Vietnamese and the Vietcong which will bring an end to the fighting in South Vietnam and lay at rest the various problems existing there in a manner satisfactory to all the people involved. These problems have arisen in Southeast Asia as a result of all these years of fighting which have engulfed that unfortunate portion of this earth.

As I further understand President Nixon's policies, he proposes an alternative course of action for this Nation to pursue in disengaging itself from further combat in Southeast Asia and in extricating our Nation from this war.

This alternative policy, as I understand it, is that in case the United States and South Vietnam are unable to negotiate a satisfactory settlement of the war and all of the problems associated with it, the United States will train the South Vietnamese to such an extent that we can reasonably hope they will be able to defend their own country against aggression from North Vietnam, and we will thereby be enabled to withdraw all of our ground combat forces from South Vietnam and return them to their homes in this country.

Pursuant to these policies 115,000 combat troops have been withdrawn from South Vietnam and returned to America; and the President has announced his purpose, if existing events permit such action, to return another 150,000 combat troops from South Vietnam to America within the next year. So much for the history of our involvement in South Vietnam prior to what may be called the Cambodian exercise.

Before dealing with that subject I wish to say something about charges which have been made and are now being made to the effect that President Johnson and President Nixon have exceeded their constitutional powers in some of the military operations they have undertaken in Southeast Asia. This necessitates a consideration of relevant constitutional provisions.

Section 8 of article I of the Constitution declares that Congress shall have the power to declare war. Section 10 of article I of the Constitution contains a provision that no State shall, without the consent of Congress, engage in war unless actually invaded or "in such imminent danger as will not admit of delay." Section 4, of article IV of the Constitution provides that the United States shall guarantee to every State in this Union a republican form of government and shall protect each of them against invasions.

Mr. President, the provisions of the Constitution which I have just read make these things clear. First, Congress and Congress alone has the power to declare a national or foreign war; and second, that the United States or even a State may engage in war without waiting for the consent of Congress when the United States or the State so acting is invaded or threatened with imminent invasion.

It seems to me that these propositions are made extremely plain by the words of the Constitution itself. The question which arises in respect of the war powers of the United States is this: Who is to direct the tactical operations of the military forces of the United States when a war is being fought? As I analyze the Church-Cooper amendment it asserts, in effect, that the Congress has some power to direct the actual operations in war of American troops in the theater of operations.

Mr. President, I submit that the Founding Fathers were not foolish enough to place the command of American troops engaged in combat operation in a Congress of the United States which is now composed of 100 Senators and 435 Representatives. I cannot imagine anything that would more nearly resemble bedlam than to have a council of war composed of 100 Senators and 435 Representatives to determine where the enemy is to be attacked or how the defeat of the enemy is going to be undertaken, or how to protect American forces from destruction by an armed enemy.

We have had some historic filibusters in the Senate but the longest of those filibusters would, by comparison, constitute just a few laconic remarks if we were to undertake to have a war council composed of 535 different men with different notions. The Founding Fathers were wiser than that, so they put a provision in the Constitution to determine that the Commander in Chief of the Armed Forces of the United States was not to be the Members of the Senate and the Members of the House of Representatives, and it was not to be the Members of the Senate and Members of the House of Representatives acting in conjunction or in opposition to the President.

To make this plain, the Constitution of the United States declares, in section 2 of article II, that—

"The President shall be commander in Chief of the Army and Navy of the United States, and of the Militia of the several states, when called into the actual service of the United States."

To be sure, no President and no power on earth can declare war, that is, put the United States in a national or foreign war, except the Congress of the United States; but after the Congress of the United States declares war, the President of the United States becomes the Commander in Chief of the Armed Forces of the United States and has the power to direct the action and practical operations of those forces in the theater where war is being waged.

This power is usually exercised by the President by way of delegation to militarily trained men. It may be noted, however, that on certain occasions President Washington undertook to direct the forces of the United States himself, as in the case of the Whisky Rebellion, and that President Lincoln on several occasions during the War Between the States undertook to direct, to a more or less limited degree, the actual operations of the Union forces.

I have high admiration and deep affection for those who are proponents of the Church-Cooper amendment, but I cannot escape the abiding conviction that this amendment, if adopted, would represent an attempt upon the part of the Congress of the United States to usurp and exercise, in part at least, the constitutional powers of the President of the United States as the Commander in Chief of our Army and Navy.

The Supreme Court declared, in an early case, *Fleming* v. *Page*, 9 Howard (U.S.) 603, that as the Commander in Chief—the President—is authorized to direct the movement of the naval and military forces placed by law at his command, and to employ them in the manner, he may deem most effectual to harass, conquer, and subdue the enemy. It goes without saying that the President has the right to employ military forces in the manner he deems most effectual to protect them from destruction by an armed enemy.

The President, of course, has the advantage of the intelligence received by him from the intelligence sources on the scene in South Vietnam. He also has the advantage of the advice of men who have spent their lives studying military matters, and who for that reason are quite competent to give advice and assist in reaching conclusions as to what actual tactical operations should be undertaken at a specific time and at a specific place.

If the Church-Cooper amendment should be adopted by Congress, it would forbid the President from acting as Commander in Chief and it would forbid every military man acting under his command from putting

a foot within the borders of Cambodia after the enactment of the amendment, even though such action was necessary to protect the American forces from annihilation. The amendment would also constitute the granting of an assurance by Congress that the North Vietnamese and the Vietcong can use the borders of Cambodia, even against the will of the people of Cambodia, to their hearts' content as sanctuaries for operations against American and South Vietnamese troops and the people of South Vietnam, and that the United States, as far as Congress can prescribe, will not do anything to molest them in such activities, even though such activities would threaten the destruction of American soldiers serving under the flag of our country in that far off corner of the earth to which they have been sent by the President, with the consent of Congress.

Mr. President, when I first rose to speak, I mentioned a book by one of our most distinguished constitutional lawyers and constitutional historians, Edwin S. Corwin, entitled "The President: Office and Powers, 1787–1957." On page 228 of this book, he quoted a statement made on this subject by Alexander Hamilton in Federalist No. 69. I will not trespass upon the time of the Senate to read Alexander Hamilton's entire statement, but I should like to state to the Senate the interpretation placed on that statemen by Professor Corwin. Professor Corwin makes this statement on page 228 of his book:

"Rendered freely, this appears—"

That is, Alexander Hamilton's statement—"to mean that in any war in which the United States becomes involved—one presumably declared by Congress—the President will be top general and top admiral of the forces provided by Congress, so that no one can be over him or be authorized to give him orders in the direction of the said forces; but otherwise he will have no powers that any military or naval commander not also President might not have.

In the succeeding pages of this book, Professor Corwin proceeds to demonstrate that Alexander Hamilton was something of a piker when he said that the President will have no powers that any high military or naval commander not also President might not have.

The succeeding pages of Mr. Corwin's book demonstrate the great extent to which the powers of the President as Commander in Chief of the military forces of this Nation in time of war have been expanded. I would suggest to some of our friends, who are not willing to accord the President the power to direct the actual operation of troops in combat, to read Professor Corwin's book and see how the powers the President as Commander in Chief have been expanded by interpretations placed upon this provision in the Constitution by the Supreme Court in subsequent days and particularly during the First and Second World Wars.

* * * * *

Mr. President, let us see what words the framers used in setting out the congressional power to declare war. They said, "Congress shall have the power to declare war."

Now there is no obscure meaning in the word "war." There is no obscure meaning in the word "declare."

Anyone can pick up a dictionary and find that the word "war" means:

"A state of open, armed conflict carried on between nations, states, or parties."

He will also find that the word "declare" means—

"To state officially or formally, to state with emphasis or authority."

It also means—

"To affirm."

Now, Mr. President, I maintain that the Gulf of Tonkin resolution, which is technically known as the Southeast Asia resolution, constitutes a declaration of war in a constitutional sense.

What does that resolution say?

It asserts in its preamble—

"Whereas naval units of the Communist regime in Viet Nam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace;"

That is one of the assertions in the preamble, a preamble passed by both Senate and House with only two dissenting votes.

"The next assertion is that—

Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Viet Nam has been waging against its neighbors and the nations joined with them in collective defense of their freedom."

Thus, here in the preamble of the Southeast Asia resolution, the Congress of the United States declares two significant facts. First, that the naval vessels of the United States have been deliberately and repeatedly attacked by North Vietnamese naval forces; and, second, that the attacks were a part of a deliberate and systematic campaign of aggression that North Vietnam is waging against South Vietnam.

Then, after the account of those recitations and those facts, it states:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander-in-Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression."

Mr. President, there is no other way that has ever been devised by the mind of man to repel an armed attack except by force. Thus, Congress expressly stated in the first paragraph, following the preamble to the Southeast Asia resolution, that the President was empowered to take all the necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression. Now, "aggression" as mentioned in the resolution means the aggression of North Vietnam upon its neighbors and the nations joined with them in collective defense of their freedom.

Section 2 of the resolution states that—

"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."

Mr. President, that is strikingly in harmony with the declaration that the United States made when it went to war with Spain in 1898.

On April 20, 1898, after the sinking of the battleship *Maine* in the harbor of Havana, the Congress of the United States passed the following resolution, which every one who has studied the subject admits to being a declaration of war. It is strikingly similar to the Southeast Asia resolution and even contains the same assertion made in the closing paragraph of the Southeast Asia resolution, that the United States has no territorial ambitions:

"Whereas the abhorrent conditions which have existed for more than three years in the island of Cuba, so near our own borders, have shocked the moral sense of the people of the United States, have been a disgrace to Christian civilization, culminating, as they have, in the destruction of a United States battleship, with two hundred and sixty-six of is officers and crew, while on a friendly visit in the harbor of Havana, and can not longer be endured, as has been set forth by the President of the United States in his message to Congress of April 11, 1898, upon which the action of the Congress was invited: Therefore,

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, First. That the people of the island of Cuba are, and of right ought to be, free and independent.

"Second. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters.

"Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such extent as may be necessary to carry these resolutions into effect.

"Fourth. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island except for the pacification thereof, and asserts its determination, when that is accomplished to leave the government and control of the island to its people."

Let us see what it takes to declare war. A very learned scholar, W. Taylor Reveley, III, wrote an interesting article which appeared in the Virginia Law Journal for November, 1969, entitled, "Presidential War-Making: Constitutional Power or Usurpation."

I read this statement from pages 1283 and 1284:

"It seems reasonably clear from proposals made and rejected at the Constitutional Convention, from debates there, subsequent statements by the Framers and from practice in early years that the Drafters intended decisions regarding the *initiation* of force abroad to be made not by the President alone, not by the Senate alone, nor by the President and the Senate, but by the entire Congress subject to the signature or veto of the President."

Mr. President, in other words Mr. Reveley says in substance that the Congress declares war when it authorizes the initiation of the use of the military force of the United States in lands lying outside of the United States. He then adds, on page 1289 the following:

"Congressional authorization need not be by formal declaration of war:"

In other words, the Congress does not have to pass a resolution saying: "Congress hereby declares war."

Mr. Reveley adds further in the Virginia Law Journal:

"'[N]either in the language of the Constitution, the intent of the framers, the available historical and judicial precedents nor the purposes behind the clause' is there a requirement for such formality, particularly under present circumstances when most wars are deliberately limited in scope and purpose. A joint resolution, signed by the President, is the most tenable method of authorizing the use of force today. To be meaningful, the resolution should be passed only after Congress is aware of the basic elements of the situation, and has had reasonable time to consider their implications. The resolution should not, as a rule, be a blank check leaving the place, purpose and duration of hostilities to the President's sole discretion. To be realistic, however, the resolution must leave the Executive wide discretion to respond to changing circumstances. If the legislators wish to delegate full responsibility to the President, it appears that such action would be within the constitutional pale so long as Congress delegates with full awareness of the authority granted."

I am certain that when Congress passed the Gulf of Tonkin joint resolution, it was aware of what authority it was granting to the President of the United States. This is made exceedingly clear by a statement which one of the opponents of the resolution made on the floor of the Senate.

Former Senator Wayne Morse made this statement:

"We are, in effect, giving the President of the United States warmaking powers in the absence of a declaration of war. I believe that to be an historic mistake."

Former Senator Morse stated that by passing the Gulf of Tonkin joint resolution Congress was giving to the President warmaking powers. I agree with that statement of former Senator Morse to that extent. But I disagree with the statement that Congress was doing it without a declaration of war, because I contend that the Gulf of Tonkin joint resolution is clearly a declaration of war.

Let us now examine another facet of this situation. When the resolution was under consideration in the Senate, the Senator from Kentucky (Mr. COOPER) put this question to the distinguished Senator from Arkansas (Mr. FULBRIGHT), the floor manager of the Gulf of Tonkin joint resolution:

"Mr. COOPER. 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 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."

Mr. FULBRIGHT added:

"If a situation later developed in which we thought approval should be withdrawn it could be withdrawn by concurrent resolution."

Mr. President, there are two interesting cases in which the Supreme Court passed on the question of what is a declaration of war. The earliest of these cases is entitled Bas against Tingy, 4 Dallas, page 36. The question involved the rescue of an American vessel and the right to certain compensation. The amount of compensation depended upon whether the rescue was from an enemy. The question arose in this case as to whether or not this American vessel, which had rescued another vessel from the French—who were then giving us a good deal of trouble by seizing vessels on the high seas—was entitled to a high rate of compensation because the rescue occurred in time of war. The Supreme Court unanimously decided that the rescuing ship was entitled to the higher compensation because the rescue occurred during a war between the United States and France.

Now, Congress had never passed any act or any resolution declaring war against France in so many terms, but it had passed laws providing that Americans could seize vessels operated by the French, something in the nature of letters of marque and reprisal. In that case Judge Chase said:

"What, then, is the nature of the contest subsisting between America and France? In my judgment, it is a limited, partial war. Congress has not declared war, in general terms; but congress has authorized hostilities on the high seas, by certain persons, in certain cases. There is no authority given to commit hostilities on land; to capture unarmed French vessels, nor even to capture French armed vessels, lying in a French port; and the authority is not given indiscriminately to every citizen of America, against every citizen of France, but only to citizens appointed by commissions, or exposed to immediate outrage and violence. So far it is, unquestionably, a partial war; but, nevertheless, it is a public war, on account of the public authority from which it emanates."

This statement appears on page 43 and clearly recognizes that where Congress authorized certain Americans to carry on hostilities against French vessels that Congress had declared war within the purview of the section of the Constitution vesting in the Congress the power to declare war.

Another case is *Marks* v. *United States*, 161 U.S. 297. I will read the opinion of Justice Brewer on page 301:

"As war cannot lawfully be commenced on the part of the United States without an Act of Congress, such an Act is, of course, a formal official notice to all the world, and equivalent to the most solemn declaration."

Now, manifestly when Congress passed the Southeast Asia Resolution, it solemnly declared, in effect, that our naval vessels were being attacked by North Vietnam, that this attack was part and parcel of the aggression which North Vietnam was inflicting upon South Vietnam, that pursuant to the Constitution, the Charter of the United Nations, and our obligations under the SEATO Treaty, Congress was authorizing the President to take all necessary measures, including the use of armed forces to repel attacks on our ships, and aggression on South Vietnam and the other nations covered by the SEATO Treaty. When Congress declared these things, it was certainly declaring that a state of war existed. Congress was declaring that it consented for the President to initiate hostilities and the use of our Armed Forces in South Vietnam and Southeast Asia. Nothing could be plainer than that.

A study of this very question was made and is set forth in the Notes in the Harvard Law Review for June, 1968, entitled "Congress, the President, and the Power to Commit Forces to Combat." This is a long article and deals with the war powers of Congress and the President. I wish to read a statement from page 1804, in which the writer of the Notes made this declaration:

"'The second section, however, proclaims that 'the United States is . . . prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.' This rather comprehensive language certainly supports the interpretation given it by the administration that it is a functional equivalent of a declaration of war and as such the President may conduct the war as he sees fit."

I do not see how anything can be plainer than the fact that when Congress adopted the Tonkin Gulf resolution, or the Southeast Asia resolution, as it is sometimes called, it declared war on North Vietnam and authorized the President of the United States to use our Armed Forces to protect the Armed Forces of the United States, and to repel aggression from North Vietnam.

Mr. President, I digress here for a moment to note that a plausible case can be made for the proposition that when Hanoi declared, in 1960, that it would—

"Liberate South Vietnam from the ruling yoke of United States imperialists and their henchmen,"

Hanoi declared war upon the United States and upon its forces then stationed in South Vietnam.

This brings us to the question whether or not President Nixon exceeded his constitutional and legal powers when he ordered our Armed Forces in Vietnam to join the South Vietnamese in wiping out the sanctuaries which the North Vietnamese and the Vietcong had established on the borders of Cambodia fronting on South Vietnam.

* * * * *

Charges have been made that this was the initiation of a new war. I controvert that charge. This is just the same war with the same enemy. For 5 years the North Vietnamese have been using these sanctuaries along the border of South Vietnam. They have been sallying forth and making attacks, destroying American lives and destroying the lives of South Vietnamese troops and the lives of South Vietnamese civilians, and then running back to the sanctuaries where the United States had been giving them total exemption from the hot pursuit doctrine which prevails in wars.

Cambodia is a neutral country, or has attempted to be a neutral country, but it has been compelled to permit the North Vietnamese and the Vietcong to use these sanctuaries as a base of military operations against U.S. forces and South Vietnamese forces for 5 years.

In my honest judgment, President Nixon, as the Commander in Chief of the American military forces in Vietnam, and as the individual charged above all others with responsibility for protecting the American forces, as far as possible, against unnecessary deaths and wounds, had a perfect, legal right—a perfect constitutional right—to put American troops in action to wipe out these sanctuaries of our enemy in Cambodia along the border of South Vietnam.

Also, President Nixon had a right to do this under international law. International law places upon every neutral country the duty to protect its neutrality, that is, to deny the use of its territory by a belligerent nation as a base for its military operations. If a neutral country is unable to enforce its own neutrality, then, under international law, a belligerent which is being injured by the use of the territory of the neutral nation by an opposing belligerent has a right to enter such territory and take such steps as are reasonably designed to put an end to this unlawful use of the territory of the neutralist nation by the opposing belligerent nation. This is what the United States has done in going into Cambodia.

During previous years, I have received many requests from fine and well-meaning persons that I rise upon the Senate floor and denounce our presence and conduct in South Vietnam as illegal and outrageous.

Even if I were sure that these persons had complete possession of all the truth on the subject, I would be reluctant to do this for one reason and incapable of doing it for another.

While I am always ready to participate in efforts to persuade our National Government to pursue wise policies or abandon foolish ones, I am ever reluctant to denounce my country in respect to its contests with foreign foes. This is true because I was nurtured on the brand of patriotism which prompted Senator Crittenden to make this statement while the Mexican War was raging:

"I hope to find my country in the right; however, I will stand by her, right or wrong."

My incapability to stand upon the Senate floor and denounce the United States for its presence and conduct in South Vietnam arises out of this consideration: My action in so doing would lend aid and comfort to North Vietnam and the Vietcong because it would tend to engender in them the belief that America's will to fight is weak and that they will be masters of South Vietnam if they prolong the war and slay more Americans.

I think that the Church-Cooper amendment is unconstitutional, in that it attempts to have Congress usurp and exercise some of the powers to direct the military forces in the theater of operations which belong, un-

der the Constitution, to the President of the United States.

But apart from any question of constitutionality and any question of legality, I would say that we should remember what St. Paul said in I Corinthians chapter 10, verse 23:

"All things are lawful for me, but all things are not expedient: all things are lawful for me, but all things edify not."

My dictionary informs me that the word "edify" means "to instruct or enlighten so as to encourage moral and spiritual improvement."

I do not think it would encourage moral or spiritual improvement, and therefore it would not edify, for the Congress of the United States to pass a resolution which would tend to destroy the last hope we have of achieving a just and lasting peace in South Vietnam by negotiations now being carried on in Paris between the representatives of the United States and the representatives of the South Vietnamese Government and the representatives of North Vietnam and the Vietcong or the National Liberation Front.

The passage of a resolution of this character would say that the United States, in effect, has lost the will to carry on, and that the enemy can take over everything there after we depart which will be soon. That is the inference they will draw from it.

I think it would not be edifying for the Congress of the United States to say that American troops cannot put a foot across the borders of Cambodia to destroy sanctuaries of the enemy, but that the enemy, as far as Congress is concerned, can use those areas as sanctuaries from which to make sudden surprise attacks upon American soldiers.

I think that the country is in no mood to seek a military victory in South Vietnam, and for that reason it should undertake to withdraw in a sound and sensible manner—in a manner which would make that area we have been trying to protect as safe as possible from our enemy, in a way which would contribute to future peace and security.

I remember, between the First and the Second World Wars, when Hitler and Mussolini came to power in Germany and Italy. They began to rattle their sabers. Americans did not want to be involved in another world war, as they had been involved in the First World War; so they decided that they would contrive some way to make certain that we would not be involved in another world war if Hitler and Mussolini saw fit to plunge the world into darkness again. So Congress passed the Neutrality Act. It passed that act with good motives; it passed it with the desire to keep America out of any new world war.

The Neutrality Act declared that we would be neutral, that we would not assist any nation, even though it was fighting for its ultimate liberty, and that we would not even furnish any supplies to help a nation fighting for its liberty against Hitler or Mussolini with our material of war unless that nation came here, in its own ships, and paid us cash on the barrelhead for those materials.

That act was passed with good motives. It was passed to keep us from becoming involved in another world war. But is was exactly what Hitler and Mussolina were looking for, that is, having the assurance from Congress that Europe could go hang so far as the United States was concerned. After passage of that act, Hitler and Mussolini believed that they could extinguish the liberties of the peoples of Europe, and they need not fear the intervention of the United States.

Hitler and Mussolini went to war, and the declarations of the Neutrality Act, which were passed in good faith, with the noble purpose of keeping us out of war, were the things which prompted Hitler and Mussolini to plunge the world into the Second World War; and it contributed, by so doing, to the deaths, the untimely deaths, of millions of helpless men, women, and children.

What will happen if Congress passes resolutions such as the Cooper-Church amendment and tells the enemy, "You can use the sanctuaries to kill our boys," but our boys cannot invade the sanctuaries to protect their own lives? If we pass such resolutions, regardless of whether there has been any peace agreement and regardless of what the conditions are, we will be attempting to repeal history, and to repeal past mistakes. It cannot be done. I said at the beginning of my argument that the Creator of the universe made it impossible for either a nation or an individual to repeal mistakes or the consequences of mistakes. I think that is undoubtedly true. As the Persian poet said:

"The Moving Finger writes: and, having writ,
Moves on: nor all your Piety nor Wit
Shall lure it back to cancel half a Line,
Nor all your Tears wash out a Word of it."

We cannot wash out our involvement in the war. We cannot escape the mistakes of history. We must try to minimize those mistakes.

One of the worst mistakes we could make would be to withdraw from Vietnam without getting a peace treaty or without having the South Vietnamese troops trained to the point that we could reasonably hope that they could defend their own country.

I am in favor of trying to settle this war by negotiation. I am in favor of withdrawing from Vietnam if we can do so in a safe and sound manner. If we cannot come to an agreement by negotiation, then let us train the South Vietnamese troops in order that they might be able to defend their own country. Let us not precipitately flee from South Vietnam merely to avoid the risks of this moment. It will not contribute to the future peace or the future safety of our country. Instead of doing that, it will be sowing the seeds of future wars.

Mr. ERVIN. Mr. President, we have heard a lot of discussion about the Constitution in the course of this debate. We have even adopted amendments which proclaim that the Constitution still lives. I confess that I am somewhat saddened by the notion that anyone should think it necessary that the Senate should adopt a resolution to the effect that the Constitution of the United States still prevails and has any control over the decisions of this body.

I do not believe that the provisions of the Constitution which are relevant are obscure, as they have been portrayed to be in much of this debate.

I reiterate that, in my opinion, the Constitution speaks clearly with respect to the powers of Congress concerning wars, and with respect to the powers of the President as Commander in Chief of the Armed Forces of this Nation.

The Gulf of Tonkin resolution was repealed, insofar as it can be repealed by a vote of the Senate acting alone, upon the supposition that the power of Congress to declare war has become obsolete, and that the President of the United States, as the Commander in Chief of the Army and Navy, can go about the surface of the earth making war at any time, and in any place, with any nation, without any consent of Congress.

It was exactly this notion which Alexander Hamilton, who was one of the most brilliant men to participate in the writing of the Constitution, undertook to dispel in Federalist Paper No. 69. In that remarkable document, he said, in about as clear words as can be found in the English language, that a fundamental distinction between the President as Commander in Chief of the Armed Forces of this Nation and the King of England, as Commander in Chief of the armed forces of that nation lay in the fact that the King of England could declare war, whereas the power to declare war is vested by our Constitution in Congress and not in the President.

The underlying assumption of those who believe that the power of Congress to declare war has become obsolete is that the Constitution cannot operate in an atomic age and cannot be effective in a day when, in many instances, wars suddenly erupt without formal declarations of war.

The men who drafted the Constitution were far wiser than they have been given credit to being during the course of this debate. They recognized that there were two kinds of war: Namely, offensive wars and defensive wars. They also recognized that the fundamental power of carrying on a war should be vested in the National Government and not in the States as such.

The draftees of the Constitution took pains, however, not only to make provision to secure the Nation against a sudden attack by a foreign enemy, but even to allow a State to protect itself against a sudden attack by a foreign nation.

Article I, section 10, clause 3, of the Constitution provides:

> No State shall, without the consent of the Congress . . . engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

And article IV, section 4 provides:

> The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion.

The execution of the Constitution is an Executive power which belongs to the President. In the two provisions of the Constitution to which I have just referred, it is especially provided in words of unmistakable meaning that the President of the United States in one case and the Governor of a State under circumstances of emergency proclaimed in the other case have a right to use the armed forces of the Nation or the armed forces of the State to repel an attack by a foreign nation.

This power to repel an attack by a foreign nation is to be exercised without the consent of Congress, because the Founding Fathers recognized it is a power which would have to be exercised without waiting for the consent of Congress at a time of danger if the nation which they were creating was to endure.

With all due respect to those who say that the Constitution is not effective to protect the United States against sudden attacks without warning from other countries, I must respectfully disagree. I do so because the Constitution declares in express words the power of the President to use the Armed Forces of this Nation without the consent of Congress and without waiting for the consent of Con-

gress to protect this Nation against armed attack from abroad.

There is another relevant provision of the Constitution, that is article I, section 10, clause 3. This section says that the Congress shall have the power to declare war.

Now, manifestly every word and every clause are inserted in the Constitution for a purpose. And inasmuch as article I, section 8, clause 11 and article IV, section 4 deal in an adequate manner with the power of the Nation or the power of the State, acting through their respective executive officers, to defend our Nation or a State against armed attack without a declaration of war or act of Congress, article I, section 10, clause 3 makes it clear as the noon day sun in a cloudless sky that what the Constitution is dealing with here is an offensive war—that is, a war which is not necessary to the actual defense of the United States against an armed attack which threatens invasion, destruction, or injury to our Nation.

So, I say with all due respect to those who entertain that view that it is absurd to say that the power of Congress to declare war has become obsolete. The Constitution itself says that nothing in the Constitution becomes obsolete unless it is removed therefrom by an amendment in the manner specified in article V.

Not only are these provisions of the Constitution which I have discussed not obsolete, but they are just as workable today as they were when they were written by the Founding Fathers and adopted by the people of the Thirteen Original States.

There is another provision in the Constitution which has been much discussed during the course of these debates. That is article II, section 2, which declares, "The President shall be the Commander in Chief of the Army and Navy of the United States."

During the course of the remarks I made on May 18, I pointed out what I conceive to be indisputable that when the Congress of the United States authorizes the President of the United States to place the military forces of the United States in combat in a foreign war, the President in his capacity as Commander in Chief of our Armed Forces has the power and the duty to direct the actual operations of those Armed Forces in combat in the theater of operations.

I took the position on May 18, and I take the position now, that as the Commander in Chief of the Armed Forces of the United States, operating under the authority of the Tonkin Gulf resolution, President Nixon had undoubted powers as Commander in Chief of our forces in South Vietnam to order those forces to make an incursion into the sanctuaries which the Vietcong and the North Vietnamese had been occupying in Cambodia and using as bases for making armed attacks upon the American troops and their allies in South Vietnam.

I also took the position at that time, and I take the same position now that the Cooper-Church amendment represents an attempt on the part of Congress to usurp and exercise in part the powers of the President, as Commander in Chief, to direct the tactical operations of our forces in Southeast Asia.

In saying this I am not unaware of the contentions of the proponents of the amendment that it contemplates the mere exercise of the congressional power of the purse in prohibiting further operations on the part of the American military forces in Cambodia after the 1st of July 1970. Undoubtedly Congress has the power of the purse, but Congress does not have the right to exercise the power of the purse as a means of coercing or inducing the President to refrain from exercising any of the powers he possesses as Commander in Chief to direct tactics in combat operations in the theater of war.

Mr. COOPER. Mr. President, will the Senator yield at that point?

Mr. ERVIN. I am delighted to yield to the Senator from Kentucky.

Mr. COOPER. Does the Senator contend that the Executive can send our troops and Armed Forces into Cambodia to support Cambodia, a country to which this country owes no obligation at all? That deals with subsections 2, 3, and 4.

Mr. ERVIN. The first section does not.

Mr. COOPER. I know, but I am asking now about sections 2, 3, and 4.

Mr. ERVIN. I do not think sections 2, 3, and 4 are germane to my present argument.

Mr. COOPER. That does not answer the question.

Mr. ERVIN. I am speaking about the use of American forces in the sanctuaries to protect American forces in South Vietnam.

Mr. COOPER. I followed the Senator's argument carefully. I have great respect for the Senator's views. The Senator has made a very strong case.

I gather from the Senator's argument that Congress delegated powers to the President through the Gulf of Tonkin resolution. Am I correct about that?

Mr. ERVIN. Oh, yes. I might add that the Senator from Kentucky, as I understand it, has always taken a forthright position with respect to that matter. In fact, I think he was the first Member of the Senate to point out, when the Gulf of Tonkin resolution was under consideration, the extent of the power which that resolution gave to the President.

Mr. COOPER. I thought it did. Now, I ask my question.

Does the Senator argue that the Executive, whoever he might be, has the authority to commit the United States to war to defend Cambodia, a country, as I have said, to which we owe no obligation by treaty, or, as far as I know, by executive agreement?

Mr. ERVIN. While I think that matter is not germane to my discussion, which is based on section 1 of the amendment, I would call the attention of the distinguished Senator from Kentucky to the fact that the SEATO Treaty, as the Senator from Kentucky and I both agree, did not place any obligation or power on the President to use armed forces in Southeast Asia without the consent of Congress and without observance of what the treaty calls our constitutional processes.

But I call the attention of the Senator to these words in the second section of the Gulf of Tonkin resolution:

> 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.

While I do not think the matter is germane to my present discussion, with emphasis on section 1, I would have to say that since the SEATO Treaty expressly declared that the protocol nations were the free regions of Vietnam, meaning South Vietnam, and Laos, and Cambodia, the President under the Gulf of Tonkin resolution would have had the power originally to have sent our forces into Cambodia to defend Cambodia if Cambodia had so requested him.

Mr. COOPER. I am familiar with that provision and I am familiar with section 2 of the Gulf of Tonkin resolution. The Senator has been arguing that unless Congress provided the authority the Executive can wage only a defensive war, and for him to take offensive action he must have the authorization of Congress. SEATO, by its terms, did not give the Executive any authority to wage war in Indochina.

Mr. ERVIN. The Senator is undoubtedly correct. But the Gulf of Tonkin resolution gave express authority to carry out the SEATO Treaty, and one of the provisions of SEATO is that by the exercise of our constitutional processes the United States could send Armed Forces into these procotol states.

Mr. COOPER. The Senator will recall that Cambodia denounced the SEATO Treaty. Second, the Secretary of State himself said that there is no request by Cambodia for our Armed Forces. With all due regard, I think the Senator is arguing against his position if he states that the Executive has authority to wage war without the consent of Congress for the protection of Cambodia.

Mr. ERVIN. If the Senator inferred from anything I have said that I entertain such opinion, one of my major purposes in making this speech is to demonstrate I do not entertain that opinion.

Mr. COOPER. Then I think we agree on something.

Now, I proceed to subsection (1). I am not going to argue against the Senator's basic argument as to subsection (1), but I believe Congress has the authority to limit a military action which, in its judgment, it thinks unwise by denying funds. All the writers agree with that. The Senator is certainly familiar with that.

Mr. ERVIN. Yes, it can just deny funds; but when Congress grants funds and then undertakes to deny them on the condition that the President refrain from exercising his powers as Commander in Chief to direct the actual tactics on the ground in the theater of operations, or taking steps necessary to protect American forces, I do not agree.

Mr. COOPER. So far as subsection (1) is concerned, when the U.S. Armed

Forces are back in Vietnam, our amendment would deny funds for their reentry into Cambodia. The Senator knows we can deny the funds, but we cannot deny the power of the President to take defensive action to protect his forces.

Mr. ERVIN. I think the Senator from Kentucky is overlooking the fact that we gave the President authority by the Tonkin Gulf resolution. That was a resolution that required concurrence of both the Senate and the House of Representatives for its validity.

Article 1, section 7, clause 3 of the Constitution of the United States reads:

> Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

I do not think Congress can declare war and thereby make the President the Commander in Chief of the Armed Forces of the United States in combat, and then repeal or nullify his authority to act as such except by the concurrence of the President, under this provision of the Constitution.

Mr. COOPER. I read the speech the Senator from North Carolina made the other day. I thought it was a fine one. The Senator is not going to change his viewpoint, is he, in the speech made the other day, which, as I recall, was that if Congress should properly repeal the Gulf of Tonkin resolution, the President will have no power to press an offensive war?

Mr. ERVIN. If the Senator will look at my remarks, I think he will find I said, in opposition to the Dole amendment to repeal the Tonkin Gulf resolution by a statute as distinguished from a resolution, that Congress had reserved the right to repeal the Tonkin Gulf resolution by a concurrent resolution, and that the effort to repeal it should be directed to that course, instead of by legislative enactment.

I have never undertaken to express any opinion on the power of the Congress to repeal a resolution which had required the concurrence of both the Senate and the House without the consent of the President. I think the clause of the Constitution which I just read would preclude that.

Mr. COOPER. Assuming the Tonkin Gulf resolution would be, as the Senator would find it, properly approved, what in the Senator's judgment would then be the power of the President of the United States as far as war is concerned?

Mr. ERVIN. I think when Congress declares war, which necessarily requires the concurrence of the Senate and the House of Representatives, the power of the President to wage that war continues until his power is rescinded by a resolution which is passed by both Houses of Congress and signed into law by the President or which is passed over the President's veto by two-thirds of both bodies.

Mr. COOPER. The Senator does not think the provision in section 3 of the Tonkin Gulf resolution has any meaning?

Mr. ERVIN. I doubt its validity, because if the provision of the Constitution which I have just read means what it says, it reserves the power to do so subject to the veto of the President or the approval of the President.

Mr. COOPER. I am glad to have the Senator's opinion.

Mr. ERVIN. But I would say to the distinguished Senator from Kentucky that I personally would not favor the President's undertaking actual engagement in operations in Cambodia which had no connection with the effort to protect the American forces in South Vietnam. I would be opposed to that as a matter of policy. On one occasion in the past I voted for an amendment offered by the Senator from Kentucky which precluded the use of our ground forces outside of South Vietnam, if the Senator will recall.

Mr. COOPER. I recall it. I think our positions and policies are the same. I thank the Senator.

Mr. ERVIN. Mr. President, for the reasons I have stated I had reached the conclusion, which I still entertain, that the Cooper-Church amendment undertakes to usurp and exercise some of the constitutional powers of the President as the Commander in Chief of the American forces to direct actual tactical operations on the ground and to protect the lives of American soldiers from attacks from the enemy coming out of the sanctuaries in Cambodia.

Having that view, I had prepared an amendment to the Cooper-Church amendment which provided as follows:

> The prohibitions set forth in this section shall become inoperative if the military forces of North Vietnam and the Viet Cong occupy their former sanctuaries in Cambodia and use them as bases for operations against the military forces of the United States and its allies in South Vietnam and the President acting as Commander in Chief finds that such action imperils the safety of United States forces operating in South Vietnam.

The purpose of my amendment was to make it clear that it was not the objective of the Cooper-Church amendment to deny to the President of the United States the power to enter the sanctuaries in Cambodia if they were reoccupied by the enemy and the enemy's action in so doing imperiled the safety of American forces or their allies in South Vietnam.

I shall not offer my amendment, however, because I believe that the amendment of the distinguished Senator from West Virginia (Mr. BYRD), which was adopted by the Senate by an overwhelming vote, accomplishes the same result.

As the Cooper-Church amendment has been amended by the amendment of the distinguished Senator from West Virginia, it reads in part as follows:

> Nothing contained in this section shall be deemed to impugn the constitutional power of the President as Commander in Chief, including the exercise of that constitutional power which may be necessary to protect the lives of United States Armed Forces wherever deployed.

That is the end of the portion of the amendment as amended by the amendment of the distinguished Senator from West Virginia.

In my judgment, the amendment of the distinguished Senator from West Virginia has exactly the same effect as the amendment which I had drafted and had proposed to offer, and for this reason I do not expect to offer my amendment.

I think there can be no doubt of the fact that our involvement in Vietnam is one of the most tragic experiences that this country has ever had. I might state further in connection with the Byrd amendment that I intend still to vote against the Cooper-Church amendment for a reason I shall presently state.

When I spoke to the Senate on May 18 I called the attention of the Senate to a remark made by one of America's greatest constitutional authorities and historians, Edwin S. Corwin, which appears on page 259 of his illuminating book entitled "The President—Office and Powers, 1787–1957":

> Actually, Congress has never adopted any legislation that would seriously cramp the style of a president attempting to break the resistance of an enemy or seeking to assure the safety of the national forces.

I think that notwithstanding the Byrd amendment, which expressly recognizes the constitutional powers of the President as Commander in Chief to protect our Armed Forces wherever deployed from annihilation or injury at the hands of an enemy, the Cooper-Church amendment does constitute, for the first time in the history of this Nation, an effort on the part of Congress seriously to handicap a President in exercising his powers as Commander in Chief under the Constitution.

I say that our experience in South Vietnam has been a very tragic experience for our Nation. But the fact is that the President of the United States acted as Commander in Chief of the Armed Forces of this Nation in Southeast Asia with the consent of Congress, and that consent was given by all of the Members of both Houses of Congress who voted for the Tonkin Gulf resolution. Every Member of the Republican Party in both Houses of Congress voted for the Tonkin Gulf resolution, and every Democratic Member of both Houses of Congress except Senators Morse and Gruening voted for the Tonkin Gulf resolution.

I voted for the Tonkin Gulf resolution, on the representation made to Congress by President Johnson, acting through the Chairman of the Joint Chiefs of Staff, Gen. Earle Wheeler, through the Secretary of State, Dean Rusk, and through the Secretary of Defense, Mr. McNamara.

I have had very little to say publicly, in times past, concerning South Vietnam. I have said much in private, to the civilian authorities who actually directed the commanders of our military and naval forces in that area of the world as to what kind of operations—that is, tactical operations—they should permit our forces to carry on in that area.

I have always recognized and supported the principle that civilian authorities have supremacy over the military authorities insofar as the control and

direction of the overall strategy of a war is concerned; but I do not think that that principle can be wisely extended to the actual tactical operations on the ground in a theater of war. I think that good sense demands that the actual tactical operations in combat, in a theater of war, must be left to the military and the naval commanders who are on the scene and who know the true situation, and who have spent their lives studying tactics and warfare. Sometimes I think it would be a good thing if those in possession of power were to read documents which hold more wisdom regarding the crucial affairs of mankind than political platforms. It is a tragedy that the civilian authorities in charge of the direction of the war in South Vietnam were not more conscious of the good advice which Polonius gave to his son, Laertes, on the occasion when Laertes was leaving Denmark for Paris. He gave Laertes this fatherly advice:

> Beware of entrance to a quarrel; but being in, bear't, that the opposed may beware of thee.

Unfortunately, the advice which Polonius gave to his son Laertes was not followed by the civilian authorities of our Government exercising control of the war in South Vietnam.

On a number of occasions, in private, I have remonstrated with those civilian authorities, and told them that in my honest judgment, they should give the boys that we sent to South Vietnam a reasonable opportunity to win the war and bring the hostilities to a close.

I was told that we were trying to fight a limited war in South Vietnam. Upon being told that, I said, "The trouble with a limited war, being fought in the manner in which this war is being fought, is that those who die in it die in a most unlimited manner."

The civilian authorities of our Government actually forbade the military authorities in South Vietnam to destroy surface-to-air missile bases during the course of their construction. These authorities must have known the bases would be responsible for shooting down American pilots in hostilities. Besides, the civilian authorities actually forbade the military authorities to drop bombs on the airfields, and the airplanes of North Vietnam sitting on those airfields. They forbade the military from ordering sorties to drop bombs on North Vietnam and its vital installations without advance authority from Washington.

These authorities actually forbade our military and naval forces in that area of the world to bomb or to blockade Haiphong and the other ports of North Vietnam, through which North Vietnam was receiving the weapons and ammunitions necessary to enable it to carry out the war of aggression on South Vietnam and the war against the American military forces there.

When I protested this in private, I was asked by the civilian authorities whether I wanted to get us involved in trouble with Red China or Russia. My response to that was that a nation which is reluctant to get its feet wet ought not to cross the Rubicon. I do not believe Red China or Russia would have done anything beyond supplying arms to the enemy.

So the upshot of the whole thing is that as a result of the manner in which this war has been fought, the boys of this Nation have been sent into battles to die in a war which the civilian authorities having control of these matters were unwilling to give them a fair opportunity to win. I ought not to say that, perhaps, but it is the stark and naked truth.

A great many knowledgeable people entertain the view that the United States could have won this war 3 or more years ago if it had allowed the military and naval commanders on the scene to have had actual control of the tactics on the ground. I must confess that I entertain that view. I have always entertained the opinion that when the politicians or the statesmen—whatever one may choose to call them—fail in their endeavors to such an extent that war comes, they ought to take a back seat and let the generals and the admirals in control of the Armed Forces on the scene determine how the day-to-day tactics of the struggle should be conducted. They refused to do this in respect to our operations in Southeast Asia, and that accounts for the present unfortunate plight of that unhappy region.

On May 30, 1970, the Charlotte, N.C., Observer published a letter written by Mrs. Tom W. Dana, of Hickory, N.C., which voiced this same opinion. In the course of her letter, Mrs. Dana quoted from a letter from her son, Capt. Gary L. Dana, of the U.S. Air Force, who later made the supreme sacrifice in South Vietnam. His letter was written in 1967 and had reference to the sanctuaries of the enemy in Cambodia.

Captain Dana said this:

> We got into another big fight on the 12th. A lot of NVA (North Vietnamese Army) were killed, but they managed to kill a lot of Americans. They pick the time and the place they want to fight and the unit that is hit has to be very lucky not to suffer heavy casualties.
>
> It really makes me sick how we are made to fight this war. Those kids wander around the jungle for months, then Charlie—

the North Vietnamese army—

> zapps them and runs back across the border where we can't touch him. One of these days, people will wise up to what is going on over here, I hope, and get rid of the people who are responsible for it. We could win in a few months if they would just let the military fight.

Captain Dana is one of the 40,000 American boys who were sent into battle in South Vietnam by the President of the United States pursuant to the authority given him by the Tonkin Gulf resolution. In the words of the poet Rupert Brooke:

> THE DEAD
>
> Blow out, you bugles, over the rich Dead!
> There's none of these so lonely and poor of old,
> But, dying, has made us rarer gifts than gold.
> These laid the world away; poured out the red
> Sweet wine of youth; gave up the years to be
> Of work and joy, and that unhoped serene,
> That men call age; and those who would have been,
> Their sons, they gave, their immortality.

As I said a moment ago, I have had very little to say publicly about Southeast Asia. I have voiced in private, to those who had the power to alter that policy, my criticism of the way in which the war was being fought. That is not the fault of Congress, because Congress is not the Commander in Chief of the Armed Forces of the Nation. All Congress can do is to authorize the use of those forces by the President and provide the funds necessary to defray the cost of such use by the President. I have not spoken publicly on this matter, simply because I could not think of a thing I could say that would lend any encouragement to the American boys who were being sent into combat by the President pursuant to the Gulf of Tonkin resolution.

I do not claim to be in complete possession of all the truth on this baffling subject. I do not claim that my concern exceeds that of any other Member of the Senate. Moreover, I do not lay any claim that my sincerity in this matter is greater than that of any other Member of the Senate. I know that we are all trying to do the best by our country under circumstances which are unprecedented in our history. The problems that confront us are not easy or pleasant of solution.

I say with sorrow and, I believe, with truth that the civilians who had control over our Armed Forces in Vietnam made it virtually impossible, for these boys to win a military victory notwithstanding their valor and their sacrifices.

Besides, I believe that a substantial portion of our people have become unwilling to seek a military victory in that area.

As a consequence, I have reached the conclusion that the wisest course of action for this Nation is to disengage itself from actual warfare on the continent of Asia, if it can do so in a safe and sound manner without forfeiting the respect and the confidence of those who have trusted in the plighted word of America to assist them in saving their liberty in this precarious world.

Alfred Tennyson said in his great poem Ulysses:

> I am a part of all that I have met.

This is true of all of us.

Mr. President, I had the privilege of serving in combat with the infantry in World War I. During the turmoil and controversy which has attended our activities in Southeast Asia, I could not help feeling that I could sense how our boys felt who had been sent there by this Nation. I have attempted, insofar as it lies within my power to do so, to see that our boys were encouraged in their hours of travail rather than being discouraged by anything said or done by me. Hence, I have given them all the support in my power, and have deplored the fact that they were not given a fair opportunity to achieve a military victory.

I cannot vote for the Cooper-Church amendment because I think it would be tragic for our boys in South Vietnam to be informed that it is the sense of the Senate of the United States that the enemy can occupy sanctuaries in Cambodia

and issue forth from those sanctuaries into South Vietnam to kill and maim them, and that they cannot enter those sanctuaries even to save themselves from destruction unless Congress passes another law on the subject.

The Constitution made the President Commander in Chief of the Armed Forces and denied that power to Congress because the Founding Fathers knew that no military force can act effectively under a multitude of commanders of varying views. As I said in my remarks on May 18, if we had a council of war composed of all the Senators and all the Representatives to decide upon tactical operations in Southeast Asia, the most historic filibusters in the Senate would seem to be but a few laconic remarks compared with what would be said by the members of that council of war. For this reason, the Founding Fathers acted with great wisdom when they made the President rather than the Congress the Commander in Chief of our Armed Forces.

I was very much surprised by the action of the Senate in voting to repeal the Gulf of Tonkin resolution. I was especially surprised that the move was apparently sanctioned by the President of the United States. The President has not told me that, so I cannot confirm it as being a fact, but I draw that inference from the fact the amendment which culminated in that vote was proposed by the distinguished Senator from Kansas (Mr. DOLE) who has been one of the spokesmen for the administration in this debate.

If I am right in my interpretation of the Constitution, that Congress has the same power to declare war now as it had in 1789 when the Constitution first became effective, and that the President is without authority to put American soldiers in combat in foreign lands in a foreign war without a declaration of war by Congress, repeal of the Gulf of Tonkin resolution will leave the American forces in Southeast Asia in a peculiar constitutional quandary.

I think the administration should have taken the position that the President has no power to commit troops to action in a foreign war without a declaration of war by Congress or its equivalent, and that the Gulf of Tonkin resolution was the equivalent of a declaration of war and authorized the President to take such action as Commander in Chief as was required, for example, with regard to the sanctuaries in Cambodia.

In my judgment, the administration should have placed itself squarely against repeal of the Gulf of Tonkin resolution and relied upon it as authority for the action which the President took in the sanctuaries in Cambodia and for the actions which the President's announced program for disengagement in Southeast Asia will require.

Mr. President, I could not vote for the amendment repealing the Gulf of Tonkin resolution because I could not help sensing how the boys in South Vietnam would feel. I am satisfied that they were not made happy by the repeal of the only authority given by Congress to the President under the Constitution for them to be in combat there.

As stated at the beginning of my remarks, the justification urged for repeal of the Gulf of Tonkin resolution was that the President of the United States as Commander in Chief has the power to wage war anywhere on the face of the earth, without the consent of Congress. I respectfully submit that there is no warrant for that belief to be found anywhere in the Constitution of the United States; but on the contrary, the Constitution of the United States forbids the President to place men in combat in foreign wars without the consent of the Congress.

Why the administration would countenance the repeal of the only authority that the President ever had for placing troops in combat in Southeast Asia is something which exceeds my feeble comprehension.

The Gulf of Tonkin resolution gives the President the authority to act as Commander in Chief in Southeast Asia. It gives him the power to command the American forces there. Its repeal presents us with a constitutional quandary which is without precedent in our Nation's history.

As stated, I have always done what I could as a Member of the U.S. Senate to sustain the actions of those boys in South Vietnam. As I see it, it is our duty to back those boys in defending themselves against the enemy until they can be withdrawn in a sound and safe manner. And that I propose to do.

I oppose the repeal of the Gulf of Tonkin resolution at this time because I believe such action would make obscure the powers of President as Commander in Chief in Southeast Asia and his powers as such to protect the lives of our men in South Vietnam. I see no good in making these powers obscure.

Before I close, I wish to say how I am going to vote on the so-called McGovern-Hatfield measure which, as I construe it, provides that on a certain day we will get out of Vietnam regardless of what the state of the world's condition may be at that time. I oppose the repeal of the Gulf of Tonkin resolution under the circumstances now existing, and I oppose the McGovern-Hatfield measure for the same reason. I think that the repeal of the Gulf of Tonkin resolution and that the enactment of the McGovern-Hatfield measure will be interpreted by our enemies to mean that the United States will abandon South Vietnam and our allies there, regardless of the conditions which exist in that unhappy land at the time of the abandonment. That is one of the reasons why I cannot understand why the administration backed the repeal of the Tonkin Gulf resolution.

I stand by the President on his announced position which, as I understand it, is that we should try to negotiate a settlement at Paris, or, on failure thereof, should train the South Vietnamese so that they can defend their own land or have a reasonable hope of so doing and so that we can gradually withdraw our forces from South Vietnam.

Unfortunately, the Senate's effort to repeal the Tonkin Gulf resolution and, I believe, the pendency of the McGovern-Hatfield measure give assurance to our enemies that it is not necessary for them to attempt to negotiate a settlement, because we will abandon the field to them very soon.

As I see it, those things represent attempts to repeal history. Unfortunately, we cannot repeal history any more than we can repeal the deaths of the 40,000 Americans who have died in South Vietnam.

The Creator of this universe made it impossible for us to repeal history. He made it impossible for us to repeal our mistakes. He does make it possible, however, for us to repent of our mistakes, and He gives us an opportunity to minimize the consequences of our mistakes as much as possible.

That is the reason why I favor the President's program. I think it is the best plan that has been devised under existing circumstances to put a sound, safe, and honorable end to our involvement in Southeast Asia. But it is going to require some patience and some self-restraint to implement.

Furthermore, there is more involved here than the question of withdrawal from Southeast Asia. As I see it, there is also involved the question as to the effect a precipitate withdrawal from Southeast Asia would have upon those nations of the earth which have relied upon us to keep our pledged word to assist them in keeping the lights of their liberties from being extinguished.

I support the President's program, because I think, as disastrous as some of its effects upon the image we enjoy in the world may be, it affords the best way in which we can extricate ourselves from Southeast Asia in a safe and sound manner without sacrificing totally our image in the minds of the peoples of other nations.

When Mark Antony stood by the body of Caesar and delivered his great funeral oration, he said, "But yesterday the word of Caesar might have stood against the world."

Yesterday the word of the United States might have stood against the world. I pray the good Lord that the Congress of the United States may not take any action of a precipitate nature which will make it probable that the word of the United States will not stand anywhere tomorrow.

I yield the floor.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily.

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

DISTRICT OF COLUMBIA APPROPRIATIONS, 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate

proceed with consideration of Calendar 939, H.R. 17868, making appropriations for the government of the District of Columbia, and other activities. The request to take up this bill meets with approval on both sides and on that basis it is taken up.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 17868) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1971, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection the Senate proceeded to consider the bill.

Mr. PROXMIRE. Mr. President, on behalf of the Committee on Appropriations, I report to the Senate the fiscal year 1971 appropriations bill for the District of Columbia, H.R. 17868.

The committee recommends a Federal payment in the amount of $108,938,000 of which $105 million is payable to the general fund. There has been no new revenue bill and the amount recommended is the full amount of the authorized Federal payment. It is also the amount recommended by the House.

I might say that I am hopeful there will be a revenue bill and when that revenue bill is reported we will be able to do much more than we can do for the District now. We are strapped because there has been no revenue bill enacted. We were determined this year to report a bill before the end of the fiscal year, which is next Tuesday. We still have an outside chance to do that because if the Senate approves this bill this afternoon we can go to conference the first of next week and have the bill before the President shortly thereafter. But in doing that we could not follow this course if we waited for the revenue act, which might not be enacted for several months.

The committee recommends $670,493,000 in District of Columbia funds. These are broken down as follows:

Operating expenses	$563,049,000
Repayment of loans and interest	15,563,000
Capital outlay	91,881,000

The total amount recommended for operating expenses is identical to the House allowance but allocated slightly differently. The amount recommended for repayment of loans and interest is identical to the House allowance and the amount recommended for capital outlay is $27,587,000 over the House allowance.

Major changes in the committee's recommendations for operating expenses are an increase of $987,900 to allow the full budget request for the Narcotics Treatment Agency—page 30 of the report—an increase of $432,300 for a stepped-up program of tax collection and enforcement in the Department of Finance and Revenue—page 18 of the report—and $50,000 to establish an Office of Spanish Affairs—page 28 of the report. In order to finance these three programs a number of relatively small reductions were made together with a reduction in annualization of previously authorized positions in the Department of Public Welfare—page 29 of the report—and a decrease from 400 to 300 in the police cadet program—page 20 of the report.

The committee recommends a total of $91,881,000 in capital outlay projects. This amount is $27,587,000 over the House bill and funds the full amount requested for the subway ($34,178,000). This is the principal difference between the House and the Senate. They did not fund the subway; we did. There is one other difference. We provide an amount sufficient to begin the first phase of an improved pollution control center at Blue Plains—$15.6 million. The House did not provide for that.

Only $103 million was available to the committee for new capital outlay projects and in order to allow these two priority projects reductions were made in other areas. The detail of this action is outlined on page 38 of the report and the table which follows.

Language has been included in the bill which would make it necessary for the District to rejustify capital outlay projects for which funds are not obligated within 2 years—page 10 of the bill—and limit chauffeur overtime payments for District officials to 25 percent of annual base pay—page 7 of the bill. Total salaries for chauffeurs in excess of $17,000 per year per chauffeur were uncovered in hearings last year and report language and my floor statement calling for correction of these excesses failed to remedy this situation.

The Bureau of the Budget and the District of Columbia failed to produce a balanced budget as requested by letter jointly signed by the chairman of the House Subcommittee on Appropriations (Representative NATCHER) for the District of Columbia and by me as chairman of the Senate subcommittee. The President did not even submit the District of Columbia budget until March 31. Nevertheless the subcommittee began early hearings in order to produce a timely bill and is proud to recommend one that can be financed with revenues available from existing legislation and do so before the first of the fiscal year. If differences can be resolved in conference and the bill enacted before July 1, which will be difficult to do it will be the first time in the last 10 years that this has been accomplished. If additional revenues become available and I earnestly hope they will, they can be considered for appropriation in a supplemental bill.

In order to clarify committee action on the District of Columbia budget, I ask uanimous consent to insert in the RECORD tables showing first, fiscal 1971 cash flow statement for the District of Columbia based on committee recommendations; second, available loan authority; and third, salaries of chauffeurs assigned to District of Columbia officials.

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

DISTRICT OF COLUMBIA GOVERNMENT—CASH FLOW PROJECTIONS, ALL FUNDS, 1971

[In thousands]

	General funds	Highway fund	Water fund	Sanitary sewage works fund	Metropolitan area sanitary sewage works fund	Total all funds
OPERATING						
Estimated funds available:						
Opening cash balance	$13,850	$1,161	$665	$22	$141	$15,839
Revenues: Collections	409,800	27,528	9,709	8,593	145	455,775
Federal payment: Appropriated	105,000		2,506	1,432		108,938
Temporary advances	40,000					40,000
Total estimated funds available	568,650	28,689	12,880	10,047	286	620,552
Estimated funds required:						
Expenditures from prior year appropriations	$39,539	$1,544	$821	$616	$9	$42,529
Current year budget recommended	526,365	18,985	10,164	7,519	16	563,049
Debt service	8,651	4,905	1,452	+ 555		15,563
Temporary advances	40,000					40,000
Provisions for reserves:						
Pay raise—Classified	7,500					7,500
Capital outlay transfers		4 500	500	1,000		6,000
Current year obligations paid after close of fiscal year	−53,415	−1,899	−1,016	−752	−2	−57,084
Total estimated funds required	568,640	28,035	11,921	8,938	23	617,557
Estimated closing cash balance	10	654	959	1,109	263	2,995

CAPITAL OUTLAY BUDGET ESTIMATES RELATED TO AVAILABLE LOAN AUTHORITY, FISCAL YEAR 1971

	Projected authorized and unappropriated loan balance	Authorized and unappropriated loan balance necessary to fund projects authorized in prior years	Balance available to fund 1971 capital outlay program	Fiscal year 1971 capital outlay estimate
General fund:				
Public works	192.0	124.4	67.6	115.2
Rapid rail transit	34.2		34.2	34.2
Total	226.2	124.4	101.8	149.4
Highway fund	(1)	19.1		11.4
Water fund	6.2	[3] 4.2	2.0	6.7
Sanitary sewage works fund	[2] 11.7	17.9		41.5
Metropolitan area sanitary sewage works fund	.3	[4] .2	.1	

[1] Annual excess operating revenue over operating expenses currently estimated at $4,500,000.
[2] Annual excess operating revenue over operating expenses currently estimated at $500,000.
[3] Annual excess operating revenue over operating expenses currently estimated at $1,000,000
[4] Annual excess operating revenue over operating expenses currently estimated at $900,000.

DISTRICT OF COLUMBIA CHAUFFEURS SALARIES (INCLUDING OVERTIME)

	Fiscal year 1969 actual	Fiscal year 1970 estimate
Commissioner:		
Johnson, Aulin:		
Regular pay	$6,684.80	$7,006.40
Overtime pay	10,805.60	10,498.76
Total	17,490.40	17,505.16
Deputy Commissioner:		
Young, Samuel (retired Oct. 31, 1969):		
Regular pay	6,684.80	2,368.80
Overtime pay	5,570.09	1,620.38
Total	12,254.89	3,989.18
Mance, Charlie (effective Nov. 1, 1969):		
Regular pay		4,570.40
Overtime pay		4,983.02
Total		9,553.42
Total, Deputy Commissioner	12,254.89	13,542.60
Chairman, City Council:		
Waters, Montrose:		
Regular pay	6,684.80	7,006.40
Overtime pay	7,405.97	8,799.16
Total	14,090.77	15,805.56
Vice Chairman, City Council:		
Hackney, Jerome (effective June 8, 1969):		
Regular pay	374.40	6,736.00
Overtime pay	312.29	6,510.46
Total	686.69	13,246.46
Pool car service:		
No. 1 Mance, Charlie (through Oct. 31, 1969):		
Regular pay	$6,428.80	$2,275.20
Overtime pay	1,081.86	697.57
Total	7,510.66	2,972.77
No. 2 Jones, Alexander:		
Regular pay	6,479.20	6,749.60
Overtime pay	563.73	197.88
Total	7,042.93	6,947.48
No. 3 Flood, James:		
Regular pay	6,479.20	6,749.60
Overtime pay	377.68	80.26
Total	6,856.88	6,829.86
No. 4 Barnes, William A. (transferred Feb. 7, 1970):		
Regular pay	6,131.20	3,958.40
Overtime pay	54.72	
Total	6,185.92	3,958.40
Grand total:		
Regular pay	45,947.20	47,420.80
Overtime pay	26,171.94	33,387.49
Total	72,119.14	80,808.29

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc; that the bill as thus amended be regarded, for purposes of amendment, as an original text; provided, that no point of order shall be considered to have been waived by reason of agreement to this order.

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

The amendments agreed to en bloc are as follows:

On page 2, line 16, after the word "expenses", strike out "$48,406,000" and insert "$48,894,700".

On page 4, line 4, after the word "limitation", strike out "$144,641,000" and insert "$143,991,000".

On page 5, line 14, after the word "Recreation", strike out "$11,141,000" and insert "$10,894,400".

On page 5, line 20, after the word "Health", strike out "$156,677,000" and insert "$157,164,900".

On page 7, line 15, after the word "only", strike out "$19,759,000" and insert "$19,679,000"; in line 16, after the word "which", strike out "$13,340,800" and insert "$13,280,800"; and, in line 20, after the word "vehicles", insert a colon and *"Provided further,* That this appropriation shall not be available for payment of premium pay to any employee assigned as a chauffeur for the Commissioner, the Deputy Commissioner, or the Chairman of the City Council which exceeds in the aggregate 25 percent of the annual rate of basic pay applicable to such employee."

On page 9, at the beginning of line 15, strike out "$64,294,000" and insert "$91,881,000"; in the same line, after the amendment just above stated, strike out "of which $500,000 shall be payable from the highway fund, and $1,745,000" and insert "of which $1,500,000 shall be payable"; at the beginning of line 18, strike out "further,"; in line 20, after the word "That", strike out "$3,389,300" and insert "$2,915,100"; and, on page 10, line 2, after the word "Services", insert a colon and *"Provided further,* Notwithstanding the foregoing, all authorizations for capital outlay projects for which funds are provided by this paragraph, shall expire on June 30, 1972, except authorizations for projects as to which funds have been obligated in whole or in part prior to such date. Upon expiration of any such project authorization the funds provided herein for such project shall lapse: Provided further, Notwithstanding any other provision of law, any authorization for a capital outlay project for which funds have heretofore been appropriated shall expire two years from the date of the Act making such appropriation unless prior to the expiration of such period funds for such project were or will have been obligated in whole or in part. Upon expiration of any such project authorization the funds appropriated therefor shall lapse."

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

Mr. PROXMIRE. I yield.

Mr. COOPER. Mr. President, I understand the bill is reported unanimously by the committee.

Mr. PROXMIRE. The Senator is correct. Yes, indeed.

Mr. COOPER. Have the majority leader and the Republican whip been advised?

Mr. PROXMIRE. Yes, the leadership on both sides has been advised. The Senator from Montana is anxious that we report the bill promptly because we have a chance to go to conference before the end of the fiscal year and have it on the desk of the President by July 1, and we are anxious to do that, if we can.

Mr. COOPER. I thank the Senator.

The PRESIDING OFFICER. The bill

is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 17868) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time the question is, Shall it pass?

The bill (H.R. 17868) was passed.

Mr. PROXMIRE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. COOK) appointed Mr. PROXMIRE, Mr. YARBOROUGH, Mr. MONTOYA, Mr. RUSSELL, Mr. EAGLETON, Mr. PEARSON, and Mr. YOUNG of North Dakota conferees on the part of the Senate.

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

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. COOK) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

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

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate resumed the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas (Mr. FULBRIGHT).

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

Mr. FULBRIGHT. I yield.

Mr. MANSFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question before the Senate is the Allott amendment.

Mr. FULBRIGHT. Mr. President, in anticipation of the offering by the Senator from Michigan of an amendment relevant to a portion of the Cooper-Church amendment having to do with the payment of troops of other countries to fight in Cambodia, I wish to make some comments today on the subject of the experience we have had of paying foreign troops to fight in Vietnam.

This distortion of our values caused by the Vietnam war has not been limited to the destruction of small countries in order to save them.

Our own Government appears to be fast reaching a point where it can no longer judge the rationality of its actions or the implications for the future that such actions contain. In this context I could talk about "defensive invasions," "protective reaction raids," or even "secret wars."

Today, however, I want to discuss two other situations that, looked at objectively, represent activities undertaken by our Government—not just this administration but the past one also—directly contrary to the traditions and heritage of our country's history.

I am speaking first about the practice of paying extraordinary individual overseas allowances to third country forces from Thailand and South Korea, who are now fighting in South Vietnam. Second, I wish to discuss the negotiations, apparently underway between ourselves and the Thais, on the amount of financial support we will provide them if they enter the fighting in Cambodia.

I believe the time has come to stop the practice of making it profitable for countries to send troops to fight wars we believe ought to be fought in order to protect their countries.

The complete record of the Symington subcommittee makes clear that neither South Korea, Thailand, nor the Philippines would have sent troops to South Vietnam if they had not been able to tell their individual soldiers they would get double or more their regular salaries—plus American-style PX privileges, which is a very important element if they "volunteered." Whether, in the case of the Philippines, the soldiers got that extra money is under investigation. We agreed to pay them and turned the money over to officials of their government.

It is not by chance that the State Department has required key portions of the negotiations with these countries to be kept secret by deleting from the record for publication. The real story of the use of mercenary forces in South Vietnam is a questionable practice on our already blotted record in this war.

At this point, I would like to place in the RECORD a table showing what the Philippine and Thai soldiers received from their own governments and what they received from ours. The Korean figures, which will become available when the Symington subcommittee record is published next month, show the same story.

I also have a table showing what we pay our soldiers and their overseas allowances, just by way of contrast, and I ask unanimous consent that both tables be printed in the RECORD at this point.

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

	Monthly base pay and quarters allowances paid by Philippines	Monthly including per diem and overseas allowances paid by United States	Total
Brigadier general	305	210	515
Colonel	235	195	430
Lieutenant colonel	195	180	375
Major	153	165	318
Captain	125	150	275
1st lieutenant	102	135	237
2d lieutenant	90	120	210
Master sergeant	53	76	129
Sergeant 1st class	53	45	98
Corporal	43	36	79
Private 1st class/ Private	43	33	76

	Monthly base pay paid by Thailand	Monthly overseas allowance paid by United States	Total
Lieutenant general	370	450	820
Major general	330	390	720
Special colonel	240	330	570
Colonel	190	300	490
Lieutenant colonel	140	240	380
Major	98	180	278
Captain	70	150	220
Lieutenant	50	120	170
Master sergeant	48	69	117
Sergeant	38	60	98
Corporal	33	50	83
Lance corporal	30	45	75
Private	26	39	65

Note: Quarters and rations paid by United States.

U.S. PAY AND OVERSEAS ALLOWANCES

	Average [1] base pay	Overseas [2] allowances	Total
Lieutenant general	$2,426.70	$65.00	$2,491.70
Major general	2,180.20	65.00	2,245.20
Colonel	1,425.30	65.00	1,490.30
Lt. Colonel	1,209.30	65.00	1,274.30
Major	962.40	65.00	1,027.40
Captain	870.00	65.00	935.00
1st Lieutenant	731.40	65.00	796.40
Master sergeant (E-9)	903.60	22.50	926.10
Sergeant (E-5)	395.40	16.00	411.40
Corporal (E-4)	330.60	13.00	343.60
Private (E-1)	124.50	8.00	132.50

[1] U.S. Armed Forces are paid according to the number of years of service they have accumulated. Thus, there is a varying pay scale within each rank. The above figures were supplied by the Department of Defense based on the average number of years a person has served when he attains the given rank.

[2] In addition to the above amounts, which represent an allowance for "combat pay," the salaries of enlisted men serving in Vietnam are exempt from income tax and officers' salaries are exempt up to $500.

Mr. FULBRIGHT. Mr. President, I want to point out that a Thai lieutenant gets $120 a month from the United States and only $50 a month from his own country—if he serves in Vietnam.

Of course, he gets the same allowances by his own country if he serves in Vietnam. So we pay to the Thai lieutenant from our own funds twice as much as his country does to induce him to volunteer for service in South Vietnam.

The record shows that there is dissatisfaction among the Thai military who do not get a chance to receive the perquisites of a tour of duty in Vietnam. Those left behind to fight the insurgency in Thailand are paid only regular salaries—no bonus and they have no PX privileges.

I would note also, to put this pay in perspective, that the average annual income in Thailand is $167, according to the Department of State.

I would contrast the average annual income of a citizen of Thailand with what we pay a general in the Thai Army in 1 month, $450, which is more than twice as much as the average annual pay of a citizen; that is, our pay alone, not to mention what the Thais pay. Our pay to a Thai major to serve in Vietnam is more for a single month than the average annual income in Thailand.

We can see the significance of the relatively enormous pay we give them, exclusive of the PX privileges, which have come to mean more to most of the Philippine and Thai soldiers than their total pay.

And how do the Thais in Vietnam fight—soldiers sent to Vietnam only after we agreed to pay the allowances? According to news reports, we had to build a special PX at the Thai base camp because the Thais were coming to Saigon and buying out PXs used by Americans stationed there. Recently, according to the news reports, the Thais have been turning more from defensive to offensive operations. Some 200 Thais have been killed in Vietnam since 1966.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the New York Times of December 3, 1969, dealing with this subject.

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

U.S. OFFICER SAYS THAI UNIT IN WAR IS WORTH THE COST

(By Ralph Blumenthal)

CAMP BEARCAT, SOUTH VIETNAM.—When the first combat troops from Thailand arrived at this base at Longthanh two years ago in a gentle rain, they were greeted by a South Vietnamese navy band blaring out "Colonel Bogey's March."

The music has since been replaced by the thunder of heavy artillery. The Thais have left dead on the battlefield. They have killed Vietcong. They have learned something about insurgency. For better or for worse they have thrown in their lot with the Americans and the South Vietnamese and they have earned respect as soldiers.

Congressional sources in Washington have reported that the Bangkok Government got $1-billion in military reimbursements and grants for joining the war.

Furthermore Thai soldiers have been known to augment their American pay by reselling to black marketeers American goods purchased at the post exchanges.

American salaries for the Thais range from $1.30 a day for a private to $4 for a lieutenant, $6 for a major, $8 for a colonel, and $10 for a general.

THEY ALSO GET THAI PAY

In addition to their American pay, Thai career soldiers continue to receive their regular salary from Thailand which, for a colonel, amounts to about $3 a day.

Thai soldiers questioned today at Camp Bearcat in the presence of their officers asserted they had not volunteered for Vietnam because of the money.

"I did it for the king and queen, to save his majesty from communism," said Choompol Dungprasird, a 23-year-old private who was in the hospital from an enemy grenade wound.

Some American officers who have fought alongside the Thais say the costs have been worth it.

"They are infusing their army with experience they could never get in their own homeland," said Col. Joseph A. Griffith, the senior American liaison officer here.

"They are coordinating their own piece of real estate. They are running operations with Australians, Vietnamese and Americans under them. They are doing here what the South Vietnamese should have done years ago."

A Thai battalion commander, Lieut. Col. Taweepong Yotintr, said he had come to South Vietnam because "I like to know what tactics the VC are using."

"If my country ever has the same subversion, I'll have to fight there," he added. "I want to practice here."

The 11,547 Thai troops, all volunteers except for a few sea and air units, are charged with guarding an area of 500 square miles east of Longthanh, which is 20 miles east of Saigon.

The swampy, overgrown flatland is used by the Vietcong as a staging area for forays against bases at Longbinh and Bienhoa.

The Thais began ground operations in September, 1967, with 2,200 troops attached to the United States Ninth Division at Camp Bearcat. However, the Thais have been providing air and sea support since 1964.

In July, 1968, the Thai force was expanded to 6,000 men, and last January a second brigade doubled the force to a light division.

Since August, 1968, the Thais have reported killing 1,192 Vietcong while suffering casualties of 146 killed and 887 wounded, half of whom had to be evacuated to hospitals. Thai battle deaths since their arrival total 204.

Camp Bearcat was turned over to the Thais and their 28 American liaison officers last July 8 when the Ninth Division left Vietnam under the United States withdrawal plan.

While one American at the camp conceded that the Thais have not been "fantastically aggressive," he said they have been turning more and more from defensive to offensive operations.

In the last five months, he said, 95 per cent of the Thais' contacts with the enemy were initiated by the Thais.

One of the most successful operations, according to Colonel Yotindr, took place last month. He said his troops had killed 33 enemy soldiers and wounded 20, destroyed 38 bunkers and captured 7 hand weapons and a 22,000-pound rice cache, all without suffering any casualties.

"When the Thais say they killed a VC," said Colonel Griffith, "they are ready to lay the body on your desk to prove it."

The Thais are equipped with the new M–16 rifle and modern field weapons. Although they have been given only eight small two-man OH–13 helicopters and eight small observation planes so far, they are able to call in American aircraft for fire support and evacuation.

In addition to the Thai force, the 479,000 United States troops and the Saigon Government's million-man armed forces are augmented by 7,600 Australians, 48,500 South Koreans, 550 New Zealanders, 30 Taiwanese and 1,500 Filipinos.

Congressional testimony made public Nov. 18 showed that the United States paid the Philippines $38-million to finance, equip and send a 2,200-man Filipino construction battalion to South Vietnam in 1966.

The Thais, like the Americans, are paid in United States military scrip, paper certificates enabling them to buy at the American post exchanges. The scrip, corresponding to regular dollar notes, is issued to keep dollars out of the hands of the South Vietnamese. But this was apparently not enough to avoid black-market operations.

Until recently, on a typical morning at the main American post exchange in the Cholon section of Saigon, lines of Thai soldiers would wait at the check-out counters with baskets filled with tubes of toothpaste, cartons of cigarettes and tins of food. Often these items found their way to the black market.

In one publicized incident in October United States military investigators keeping watch outside the post exchange challenged some Thais carrying out television sets and other appliances. In an ensuing argument, shots were fired. The facts have never been fully disclosed.

To cut down on illegal resale, the Thai troops at Camp Bearcat were given their own post exchange at the camp in April. There each soldier is limited to six cartons of cigarettes and three cases of beer a month.

The big Cholon post exchange is now open only to Americans and the limited number of foreign troops serving in the joint allied command camp in Saigon.

Mr. FULBRIGHT. The Koreans, on the other hand, have gained a reputation for fighting along with their already-recognized PX-power. But as the Symington subcommittee record will show—individual Koreans are sending millions of dollars back from Vietnam and when they return home themselves they are permitted to take a measured ton of goods, most of it from PX purchases.

I have never heard a satisfactory answer as to why these extra large allowances should be paid by the United States when it is the security of Thailand and South Korea that is more directly affected.

They are paid, of course, because that is the only way we could get these soldiers to Vietnam.

This system leads to distortion of our values. The American people for years—unaware of the nature of the allowances—were continually told by their leaders that the Free World forces in Vietnam represented recognition that all Asian nations had a stake in the outcome in Vietnam.

That stake—it now turns out—was in good part money.

For that reason, I am opposed to the amendment submitted by the junior Senator from Michigan which would have the effect of removing the prohibition on paying allowances to allies to fight in Cambodia. I believe such payments also should be stopped now in South Vietnam and prevented in the future. To accomplish that end I would hope that when the appropriate legislation reaches the Senate floor an amendment will be offered along the following lines:

Funds authorized for appropriation for the use of the Armed Forces of the United States under this or any other Act are authorized to be made available for their stated purposes to support: (1) Vietnamese and other Free World Forces in Viet Nam, (2) local forces in Laos and Thailand; and for related costs, during the fiscal year 1971 on such terms and conditions as the Secretary of Defense may determine, Provided, that none of the funds appropriated pursuant to this Act shall be used to permit special allowances or per diem payments or other similar bonuses to such forces in addition to their regular base pay supplied by their government.

How many of our citizens know that for American troops sent to Vietnam the highest monthly special combat allowance is $65 no matter what their rank? Yet at the same time the United States pays almost twice as much combat pay to Thai and Korean officers in Vietnam as it pays to its own brave men

who actually do most of the heavy fighting.

The Senate has before it in section 3 of the Church-Cooper amendment language which simply says that before the United States uses its taxpayers' money to pay allowances or other special funds to the Thais or any other third country force going into Cambodia, the administration must come to the Congress—in the normal manner—and have such a program authorized and funded.

If we are to give foreign allied troops combat pay twice as large as that we give American troops, Congress should so decide.

Those who try to portray this Cooper-Church language as prohibiting Asians from helping Asians are distorting the facts.

There is nothing in the law today or in the Cooper-Church amendment that prevents the Government of Thailand—if it believes it is in its interest—from sending its own forces into Cambodia to assist the Cambodian Government. Yet we read in the paper that the United States is involved in negotiations with the Thais over the number and type of troops they are to supply for Cambodian fighting and how much we must pay them.

As I understand the present situation, the Thais are free to use equipment which the United States has provided them through the Defense budget—and perhaps even to take other support assistance—for any force it sends into Cambodia. What it cannot automatically expect, however, is that the excessive and ill-conceived allowances that we are now paying them for going into Vietnam will also be available for those troops going into Cambodia.

If the Thais will not order their troops into Cambodia without special allowances, or if the Thai troops themselves will not go if they are so ordered without special allowances, it would seem to me proof that the Thais themselves do not believe their own security requires them to take such a step.

If this is the case, I believe it to be unwise for us to provide a financial incentive to undertake military activities that they seem unwilling to undertake on their own.

Mr. President, there is, furthermore, the question of self-deception involved when we seek to fool ourselves that these allowances only permit countries such as Thailand, South Korea, and the Philippines to do what they otherwise might not be able to do. Our policymakers have forgotten that it was money that brought them into the battle in the first place and look upon their presence as a voluntary allied effort to defeat communism. This kind of misconception colors all our thinking and inhibits the making of policies and decisions in the interest of the American people.

There also is the false assumption that by making it financially attractive for the Thais to go into Cambodia we are substituting their boys for some American boys who otherwise will have to go in there and fight. This, I believe, is the most deceptive of assumptions.

The fact of the matter is that we have no legitimate interests in propping up the Government of Cambodia. It is not in the interest of the people of the United States to preserve the Government of Cambodia with our own troops, so why is it in our interest to pay others to attempt it for us?

And what of Thailand itself? Using their troops in Cambodia puts that country in the further danger of having the Communists stir up an already existing, though minimal, insurgency in Thailand just to keep them busy at home. And will not our responsibilities to Thailand be increased for having urged them to enter yet another foreign adventure?

These are just a few of the thoughts we must consider when discussing the cost of mercenaries and their allowances. It is a practice that the previous administration encouraged and should bear great responsibility for. It is one that this administration appears to be adopting without fully considering its implications.

Mr. President, I believe it is time that we stop making mercenaries out of allies and allies out of mercenaries. We must prevent our money from distorting the ability of countries to determine their own national interests. We must stop deceiving ourselves as to what our own interests are in Cambodia and in all of Southeast Asia. The first step in this process should be to prevent Cambodia from becoming a profitable mercenary war for the Thais or anyone else. A second step would be to apply the same policy to Laos and to Vietnam.

Mr. President, in a recent article in the Wall Street Journal—which is noted for being a conservative, moderate, and thorough newspaper, I believe, in the way it prepares its articles—there was published an article written by Robert Keatley, entitled "Recruiting—And Paying—Our Asian Allies." This article appeared in The Wall Street Journal of June 24, 1970. I shall read two brief excerpts from the article. It says:

> On the scene, the Philcag set records of sorts; the average sergeant spent twice his annual salary in American PXs, indicating a healthy penetration of the profitable black market. Militarily, most observers agree the Philcag probably didn't set back the war effort very much before it recently went home again.

Then, with regard to the Thai troops:

> The Thais are shrewd and, as former U.S. Ambassador Graham Martin testified, had few illusions about the usefulness of their contribution when asked to help. They went because they figured former President Johnson was finding going it alone "increasingly uncomfortable," Mr. Martin explained.
>
> But they didn't go cheaply. Their colonels, for example, got a full $300 monthly extra from the U.S., and total cost to Washington so far exceeds $230 million. Though Thailand sent more men (11,000) than did the Philippines and has done more fighting, the overall impact hasn't been decisive—just as Bangkok knew all along.

Mr. President, I ask unanimous consent to have printed in the RECORD the entire article entitled "Recruiting—and Paying—Our Asian Allies," written by Robert Keatley and published in the Wall Street Journal of June 24, 1970.

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

RECRUITING—AND PAYING—OUR ASIAN ALLIES

(By Robert Keatley)

WASHINGTON.—"A man getting drunk at a farewell party should strike a musical tone, in order to strengthen his spirit . . . and a drunk military man should order gallons and put out more flags in order to increase his military splendor."

The late Evelyn Waugh read this instruction from a Chinese sage and found "Put Out More Flags" an excellent title for a novel. But one might conclude that former President Lyndon Johnson also read it and found much more—a policy for Southeast Asia. At least, that conclusion is tempting after studying assorted documents issued recently by Sen. Fulbright's Committee on Foreign Relations.

For it appears Washington a few years ago became seized of the urge to put out more flags in Vietnam when it grew tired of taking the rap alone for an unpopular war (however justified it believed the combat to be). Thus it created something called Free World Forces, which U.S. propagandists once cited—interminably—as visible proof that crushing the Communist foe there had broad international support.

AN INDISCRIMINATE PEACE?

The organization has accomplished certain things. It fills a large and costly office building in Saigon, and in fact has all possible flags flying out front. Its tough South Korean contingent even fights the Reds and remains responsible for security in a vital area—though some say it keeps peace by a rather indiscriminate system of deciding just which Vietnamese are enemies.

But unfortunately for the publicists, some unflattering truths about these forces have been emerging lately, thanks to the Senator's committee, which is no friend of the Vietnam war.

The Philippines, for example, were persuaded to send a 2,200-man construction battalion (the Philcag) only after the U.S. spent $39 million getting it organized. Terms included extra salary payments from the American exchequer to Filipinos in Vietnam, such as $195 monthly per colonel. However, U.S. investigators haven't been able to trace just where all the money really went, and the suspicion lingers that some Manila officials—not known for probity—may have pocketed a healthy share.

On the scene, the Philcag set records of sorts; the average sergeant spent twice his annual salary in American PXs, indicating a healthy penetration of the profitable black market. Militarily, most observers agree the Philcag probably didn't set back the war effort very much before it recently went home again.

Other disclosures, about Thailand, show the ante can be raised when additional flags are desperately desired. The Thais are shrewd and, as former U.S. Ambassador Graham Martin testified, had few illusions about the usefulness of their contribution when asked to help. They went because they figured former President Johnson was finding going it alone "increasingly uncomfortable," Mr. Martin explained.

But they didn't go cheaply. Their colonels, for example, got a full $300 monthly extra from the U.S., and total cost to Washington so far exceeds $230 million. Though Thailand sent more men (11,000) than did the Philippines and has done more fighting, the overall impact hasn't been decisive—just as Bangkok knew all along.

Then there is the intriguing story of how the government of Honduras once joined the ranks of Saigon's friends. According to official accounts sent to Congress, a Honduran air force plane once voluntarily flew 3,100

pounds of supplies to South Vietnam—a laudable act indeed.

But the gesture was a bit more complicated than that.

The airplane, it appears, actually was an aging American C–54 on loan—repainted for the journey with Honduran colors. It did fly from Tegucigalpa to Saigon in 1967, taking along 26 passengers, and using about 17 days to travel each way (permitting rest stops in Honolulu, Hong Kong, Tokyo and Taipei). The U.S. paid such expenses as the $235 per hour it took to operate the plane. It also provided three navigators, because the Hondurans lacked necessary skills.

Perhaps it all did some good. Presumably, the clothes and drugs were needed. A few South Vietnamese may be reassured knowing they have friends in Honduras, if they know where that is. And the 19 Honduran military men who flew to Saigon perhaps learned about combat; last year their tiny country (the poorest in Central America) managed to go to war with neighboring El Salvador after a riot at a soccer match. Most likely, their 12 airworthy planes—piloted by the former Saigon visitors—played a role in this "football war," which ended in a draw.

ADDING ANOTHER CHAPTER?

Unfortunately, Washington may now add another chapter to this tale.

For the U.S. once again wants more flags flying in Southeast Asia, namely in Cambodia. It asks South Vietnamese forces to swoop across the border to help the shaky Lon Nol regime, a feat Saigon says may cost the U.S. an extra $200 million per year. Washington also encourages Bangkok to leap in once more, which the Thais say they will do for a price. And the Pentagon looks longingly at Indonesia's Siliwangi division and Malaysia's good police forces when considering who else might be useful in Cambodia.

But one wonders if the activists here have considered just what good this help might accomplish. Many Free World Forces have had a marginal impact in South Vietnam at best, cost a great deal and created political problems.

Referring to the mid-1960s, Ambassador Martin rather wryly noted that "this was not a period which we would probably wish to cite as an historical precedent for the complete devotion to logic." Perhaps that hasn't changed completely, and unpleasant logic may be shoved aside again as the drive to put out more flags resumes.

Mr. FULBRIGHT. 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.

THE POSTAL REORGANIZATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 913, S. 3842, so that it may again become the pending business of the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 3842) to improve and modernize the postal service and to establish the U.S. Postal Service.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the pending business is taken up on Monday next there begin a time limitation of 1 hour on each amendment, with the exception of the Fannin amendment, the time to be equally divided between the sponsor of the amendment and the manager of the bill or by whomever he may designate.

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

The unanimous-consent agreement reduced to writing is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That effective on Monday, June 29, 1970, during the further consideration of S. 3842, a bill to improve and modernize the postal service and to establish the United States Postal Service, debate on any amendment, except an amendment by the Senator from Arizona (Mr. FANNIN), be limited to one hour, to be equally divided and controlled respectively, by the mover of the amendment and the manager of the bill or his designee.

LEGISLATIVE PROGRAM

Mr. SCOTT. Mr. President, can the distinguished majority leader give us further information for the rest of the week and following action on the postal reform bill?

Mr. MANSFIELD. Mr. President, we will complete action on the pending business, an act to amend the Foreign Military Sales Act, on Tuesday next. It is anticipated that we will be on the currently pending business, the postal reform legislation, the rest of the day, Monday, Tuesday, and that on Wednesday it will become the pending business itself, when we return to a one-shift basis in the schedule.

Perhaps on Wednesday or Thursday it may be possible to take up the extension or the raising of the debt ceiling. I am not at all sure that is the case, but if we cannot, then I would recommend to the distinguished minority leader that consideration be given to a 1 month's extension so that the ceiling will not revert back to what it was but will remain at the present level.

Mr. SCOTT. Mr. President, I think we should agree to a month's extension if we cannot otherwise dispose of the debt limit ceiling legislation.

At this time, we may as well restate what we have agreed on as the rest of the program. As I understand it, at 1 o'clock Monday there is an agreement to vote on the Allott amendment to the Military Sales Act. We have an agreement to vote at 2 o'clock on Tuesday on the Cooper-Church amendment, on 4 o'clock that day to have a final vote on the Military Sales Act, and at 5:30 p.m. on that day to take up and dispose of the veto of the President on the so-called Hill-Burton Act, where a vote will be either to sustain or override.

Mr. MANSFIELD. Yes; and in the period between the vote on the Allott amendment on Monday and the final vote on Tuesday, other amendments may be offered, but they will be on a 1-hour limitation.

Mr. SCOTT. As previously agreed.

Mr. MANSFIELD. Yes. Then, following the legislation already considered, I would like at some time to get to S. 1830, an act to provide for the settlement of certain land claims of Alaska natives, and for other purposes.

I would also like to dispose of two bills, S. 26 and S. 27, having to do with parks and recreation in Utah.

Then there is S. 3074, having to do with minimum standards for electrical, mechanical, and thermal equipment.

All this will not come before the Fourth of July—it would be too much—but I would hope we could get to the Interior appropriations bill before the Fourth, and after the Fourth the independent offices appropriations bill and the Agriculture appropriations bill.

This is a hit-or-miss answer, and we will work it out more exactly, but somewhere in this legislation we hope to get to the concurrent resolution to terminate certain joint resolutions authorizing the use of the Armed Forces of the United States in certain areas outside the United States.

Mr. SCOTT. Did not we get rid of that?

Mr. MANSFIELD. In a haphazard manner, but we want to nail it down to the Mathias proposal on a concurrent resolution bias which would not require the signature of the President.

I will try to straighten this out for the RECORD, but we have a lot to do up to the time the recess begins on Thursday next, and we will have a lot to do from the day we come back from that recess.

Mr. SCOTT. Mr. President, I welcome the recess, brief though it may be, because it will save some speeches from being made on the Senate floor which might better be made on the hustings.

"WIB" CHAPMAN—A MAN OF THE SEA

Mr. PELL. Mr. President, I have learned with great sadness of the death of Dr. Wilbert M. Chapman, one of the truly great men in the history of oceanology.

"Wib" Chapman was known to virtually everyone interested or involved in marine science activities and affairs of this Nation, and indeed, of the world.

He started his career as a marine biologist, but through experience and study, he became what can best be described the complete man of the oceans.

In the past decade, there has been no oceanologic meeting or conference of any significance to which Wib Chapman did not contribute his knowledge, his sage advice, and his delightful presence.

He was one of a small number of men who constituted the oceanologic establishment of this country, an establishment whose legitimacy and influence is based not on power, but on well-earned and deserved respect.

One of Wib Chapman's great dreams and objectives was the establishment of a U.S. national oceanologic program worthy of this great maritime country. He campaigned tirelessly for creation of a unified oceans agency in the Federal Government. His death comes at a time when significant steps

toward realization of that goal are in sight.

Mr. President, I had the privilege, in October 1968, of presenting to Wib Chapman the first Sea Grant College Award, established to honor men whose career and work exemplifies the purposes of the national sea grant college program. I ask unanimous consent that a portion of my tribute to Dr. Chapman at that time be printed in the RECORD at this point.

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

PRESENTATION OF THE FIRST SEA GRANT COLLEGE AWARD

(By Claiborne Pell)

The recipient of this first Sea Grant College Award is a man whose career and work exemplifies the purposes of the award and the Sea Grant College Program.

Dr. Wilbert M. Chapman is known wherever men of the sea gather to discuss their problems and prospects. First and foremost, by training and long experience, he is a scientist. But he is a scientist who has not been content with expanding our technical knowlege of the sea. Dr. Chapman has insisted that this knowledge be applied to benefit mankind. He has insisted that the fruits of scientific research be reflected in public policy, and to this end he has persistently explored those areas where education, economics, law and public and foreign policy mingle and mix with the sciences of the sea.

In the process, Dr. Chapman has become more than a scientist. He has become an educator, an administrator, a valued consultant, an economist, a prolific author and—though perhaps he might wince at the word—a diplomat.

Most of you, I think, have some knowledge of Dr. Chapman's career, but permit me to touch briefly on some of the highlights. As a biologist, he worked for his native state of Washington and for the U.S. Fish and Wildlife Service; and as curator of Fisheries for the California Academy of Sciences. After duty during World War II as a fisheries development officer in the Pacific, Dr. Chapman returned to the University of Washington as director of the School of Fisheries. He then served for three years as special assistant to the Under Secretary of the Department of State for Fish and Wildlife.

There followed eight years as director of research for the American Tunaboat Association and two years as director of the Resources Committee, concerned with the application of science and technology to fisheries development. Since 1961, Dr. Chapman has been director of marine resources for the Ralston Purina Company.

The breadth of his influence and the high esteem in which he is held among people involved with problems of ocean utilization is reflected in the fact that he is now serving as chairman, member or consultant to a dozen national, international and state commissions and boards and committees. He has also served as a member or consultant to practically every international conference conducted in recent years touching on ocean problems. Somehow, between his committee and commission meetings and his full-time job, Dr. Chapman has also managed to produce nearly 200 papers on ichthyology, fishery development, the law of the sea, fishery economics, and ocean science.

In his address to that First Sea Grant College Conference three years ago, Dr. Chapman offered the thesis that there is a distinct difference between what he calls "sea people" and "land people". He said, "The ocean weeds out from all of the races of mankind that come upon it to make a living a certain type of person. This type of person stays with the ocean and the rest are cast back ashore to deal with the land people."

It is quite clear that the ocean did not cast Dr. Chapman back to shore. He is indeed one of the sea people.

CONVICTION OF ALAN McSURELY AND MARGARET McSURELY FOR CONTEMPT OF CONGRESS

Mr. McCLELLAN. Mr. President, Alan McSurely and Margaret McSurely were each convicted today on both counts of their identical indictments for contempt of Congress in the U.S. District Court for the District of Columbia. District Judge John Lewis Smith, Jr., presided. The trial lasted for 4½ days. The jury deliberated for approximately 1 hour and 20 minutes before returning its verdict.

The McSurelys were convicted as a result of refusing to furnish to the Senate Permanent Subcommittee on Investigations certain records in their possession which were the subjects of subpenas duces tecum by the subcommittee. The contempt occurred in an executive session of the subcommittee held on March 4, 1969. They appeared at the hearing on that date and testified that they would not produce the records and that they had not brought the documents with them for the purpose of producing them. They were then given a further opportunity to produce the records by being directed to bring them to the subcommittee by noon on Friday, March 7, 1969. On that date they failed to appear, and this failure was the basis for the second count in each of their indictments for contempt of Congress.

The Permanent Subcommittee on Investigations thereafter met on March 24, 1969, and voted unanimously to seek citations of contempt against Alan McSurely and Margaret McSurley through the Committee on Government Operations.

The Committee on Government Operations, thereafter, on April 30, 1969, met and unanimously voted a resolution to present to the U.S. Senate to permit the U.S. attorney to proceed against the McSurelys.

On May 5, 1969, the Senate voted to cite the McSurelys for contempt of Congress. The committee's investigation which involved the McSurelys was related to the riots which occurred in Nashville, Tenn., in April 1967.

I may further state that Mr. David G. Bress, formerly U.S. attorney for the District of Columbia, was appointed special assistant to the Attorney General to act as prosecutor in those trials.

I have found after more than 15 years of experience in conducting investigations in the areas of which the Committee on Government Operations has jurisdiction, and which it has received a special mandate from this body to conduct, that there is nothing pleasant in the performance of an official duty of this kind. We get all types of people before us as witnesses. When we really dig into some of the problems and try to get the truth for the record and try to get information that Congress needs upon which to premise legislation, it is characteristic that we run into all kinds of obstructions. Often witnesses take the fifth amendment; on other occasions they will talk, as in this instance, about defying Congress, and then they will hire the best attorneys they can get to try to confuse the issues, perplex the juries, and mislead them into bringing in verdicts of acquittal.

That effort was made by defense counsel in this case. In my judgment, he did not try to seek the facts, but simply tried to conduct a smear effort in his defense of his clients, instead of dealing with the issues. He injected into the trial names that did not belong there, and he made insinuations that were not only improper but untruthful, in my judgment. As a result of the trial, however, which lasted 4½ days, the jury, after deliberating for an hour and 20 minutes, found the defendants guilty on each count of the indictment. I do not know what the sentence will be; I have simply referred to this case to show that when the Senate gives a committee authority, jurisdiction, and direction to make an investigation, such as the committee did in connection with the riots that were occurring all over the country, to try to find out the causes of the riots, the extent of them, and whether they arose instantaneously, or were planned or were the result of a conspiracy—when we dig into these factors, quite often we find our work very difficult. We run up against a wall of resistance that is very difficult to penetrate or to go around.

Often it is necessary to try to obtain documents from certain people, documents that would reveal or give a clue to what had been discussed at meetings, so as to determine the objectives of those meetings. That situation prevailed in Nashville, Tenn. Some meetings held there were attended by groups which included Communists. Speeches were made, emotions no doubt were aroused, and people were incited to actions that, in my judgment, contributed to the outbreak of disturbances and rioting a day or two thereafter.

No one likes to see people punished, but we are at the point in America where, if we cannot enforce the law, subversive elements in the country are going to defy the courts, defy Congress, and defy decent society. If we are to continue to maintain the tie that binds our society, we find that we have no alternative except to resort to our courts and hope that justice may be done. I believe that justice was done in this case.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate proceed to the consideration of bills on the calendar beginning with Calendar No. 965 and continuing with the rest of the calendar in sequence.

The PRESIDING OFFICER. Without objection, it is so ordered. The first bill will be stated.

THE MID-ATLANTIC STATES AIR POLLUTION CONTROL COMMISSION

The Senate proceeded to consider the joint resolution (S.J. Res. 53) to consent

to and enter into the Mid-Atlantic States Air Pollution Control Compact, creating the Mid-Atlantic States Air Pollution Control Commission as an intergovernmental, Federal-State agency which had been reported from the Committee on the Judiciary with amendments on page 2, after the preamble, strike out the resolving clause and, in lieu thereof, insert:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States hereby consents to, and joins in States of Connecticut, New Jersey, and New York in the following compact:

On page 26, after line 9, insert a new section, as follows:

SEC. 3. (a) Notwithstanding any other provision of this Act, nothing contained in this Act or in the compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education, and Welfare or of any other officer or agency of the United States, relating to air pollution.

(b) Nothing in this compact or this Act shall be construed as conferring jurisdiction on the commission over an air quality control region or regions under section 1857(a)(2) of title 42, United States Code, not wholly within the boundaries of the compacting states.

(c) Nothing in this compact or this Act shall be construed as requiring that the commission established by this compact serve as the air pollution control agency for any interstate air quality control region designated by the Clean Air Act, as amended by the Air Quality Act of 1967 (42 U.S.C. 1857a(c), 42 U.S.C. 1857(a)(2), 42 U.S.C. 1857c(a)(3), 42 U.S.C. 1857c–1(a), 42 U.S.C. 1857(b)(2), and 42 U.S.C. 1857h(B)(4)).

And on page 27, after line 3, insert a new section, as follows:

SEC. 4. The right of Congress to alter, amend, or repeal this Act is hereby expressly reserved.

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States hereby consents to, and joins the States of Connecticut, New Jersey, and New York in the following compact:

"COMPACT

"Whereas, the signatory parties recognize that they have certain serious problems in common with respect to pollution of the atmosphere by man-made contaminants; and

"Whereas, the nature an sources of air pollution are such that the states' efforts can be effectively supplemented by control measures applicable to regional airsheds which cut across state boundaries; and

"Whereas, the signatory parties recognize that the protection and improvement of the quality of their common atmosphere is vested with local, state and national interests, for which they have a joint responsibility; and

"Whereas, the signatory parties have determined to establish a federal-interstate agency, with jurisdiction and powers adequate to cope with interstate air pollution problems;

"Now, therefor, the states of New Jersey and New York and the United States of America, and if any of them should join herein, the states of Delaware, Connecticut and the Commonwealth of Pennsylvania, respectively, hereby solemnly covenant and agree with each other, upon the enactment of concurring legislation by the congress of the United States and by the respective state legislatures, having the same effect as this part as follows:

"ARTICLE I

"SHORT TITLE, DEFINITIONS AND FINDINGS

"SECTION 101. SHORT TITLE.—This act shall be known and may be cited as the 'Mid-Atlantic States Air Pollution Control Compact'.

"SECTION 102. DEFINITIONS.—For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

"(1) 'Commission' shall mean the commission established by this compact;

"(2) 'Region' shall means the territorial limits of the states which are or become parties to this compact;

"(3) 'Compact' shall mean Part I of this act;

"(4) 'Federal government' shall mean the government of the United States of America, and any appropriate branch, department, bureau or division thereof, as the case may be;

"(5) 'Signatory party' shall mean a state, commonwealth, or the federal government, which has become a party to this compact by enactment of concurring legislation;

"(6) 'District' shall mean any area established, identified or defined by the commission in connection with the abatement or control of air pollution;

"(7) 'Air contaminant' shall mean dust, fumes, mist, smoke, or other particulate matter, vapor, gas, odorous substance, or any combination thereof;

"(8) 'Air pollution' shall mean the presence in the outdor atmosphere of one or more air contaminants in such quantities and duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property.

"(9) 'Emission' shall mean a release into the outdoor atmosphere of air contaminants.

"SECTION 103. FINDINGS OF FACT.—It is hereby found and declared that:

"(1) The tremendous growth of population and industry has resulted in substantial increases in atmospheric waste and air pollution over the entire region;

"(2) Air pollution does not respect political boundaries, and persons far removed from its sources and having no responsibility for or control over its creation endure health hazards, discomfort and inconvenience and experience property damage and economic loss;

"(3) Air pollution is associated with such important respiratory diseases as lung cancer, emphysema, chronic bronchitis and asthma, and is a general hazard to the public health and welfare, agricultural crops, livestock and other property;

"(4) It is necessary and desirable to abate existing air pollution and prevent future air pollution so as to secure and maintain air quality which is consistent with the public health and welfare, the propagation and protection of plant and animal life, and the protection of property and other resources of the region;

"(5) In the present state of the art, there are no public facilities for collection and disposal of atmospheric waste comparable to facilities to cope with liquid and solid waste, and the effects of emissions differ greatly among air resource uses and users, under the various meteorological and geographic conditions, which disregard state boundaries;

"(6) Air pollution can best be controlled and abated at its sources, and, while such prevention, control and abatement is the primary obligation of the states, counties or municipalities in which it originates, the problems of interstate air pollution can be more readily and effectively solved under a coordinated regionwide agency of the State and Federal Government.

"SECTION 104. EXISTING AGENCIES; CONSTRUCTION.—It is the purpose of the signatory parties to preserve and utilize the functions, powers and duties of existing offices and agencies of government to the extent not inconsistent with the compact and the commission is authorized and directed to utilize and employ such offices and agencies for the purpose of this compact to the fullest extent it finds feasible and advantageous.

"ARTICLE II

"ORGANIZATION AND ADMINISTRATION

"SECTION 201. COMMISSION CREATED.—There is hereby created the Mid-Atlantic States Air Pollution Control Commission as a body politic and corporate, with perpetual succession as an agency and instrumentality of the respective signatory parties.

"SECTION 202. COMMISSION MEMBERSHIP.—The commission shall consist of the governors of the signatory states, ex-officio, and one commissioner to be appointed by the President of the United States, to serve during the term of office of the President appointing him and until the appointment and qualification of his successor.

"SECTION 203. ALTERNATES.—Each member of the commission shall appoint an alternate to act in his place and stead, with authority to attend all meetings of the commission, and with power to vote in the absence of the member. Unless otherwise provided by law of the signatory party for which he is appointed, each alternate shall serve during the term of the member appointing him, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only. In the event of the temporary absence or disability of an alternate, the member of the commission may appoint another qualified person to act as his alternate for the duration of such temporary absence or disability.

"SECTION 204. COMPENSATION.—Members of the commission and alternates shall serve without compensation from the commission but may be reimbursed for necessary expenses incurred in and incident to the performance of their duties.

"SECTION 205. VOTING POWER.—Each member shall be entitled to one vote on all matters which may come before the commission. No action of the commission shall be taken at any meeting unless a majority of the membership shall vote in favor thereof.

"SECTION 206. ORGANIZATION; PROCEDURE.—The commission shall provide for its own organization and procedure and shall adopt rules and regulations governing its meetings and transactions. It shall organize annually by the election of a chairman and vice-chairman from among its members. It shall provide by its rules for the appointment by each member in his discretion of an advisor to serve without compensation, who may attend all meetings of the commission and its committees.

"SECTION 207. JURISDICTION.—The commission shall have, exercise and discharge its functions, powers and duties within the region. It may by contract or otherwise act jointly, concurrently, or in cooperation with any other agency or instrumentality of government within or without the region for the purpose of effectuating the purposes of this compact.

"SECTION 208. RETAINED JURISDICTION OF SIGNATORY PARTIES.—(a) Unless authorized by laws of the signatory States other than this compact, the commission shall not have power to require licenses or permits for the construction, establishment, installation, maintenance or operation of any air pollution source or other equipment, device or facility; to require commission approval of any of the foregoing; or to confer upon the commission any other power of licensure.

"(b) Nothing in this compact shall be construed to abrogate, impair or in any way prevent the enactment or application of any State or local law, code, ordinance, rule or regulation not inconsistent with this compact, or with any standard, rule or regulation of the commission; and any such State or local law, code, ordinance, rule or regulation may be more restrictive than any requirement in effect pursuant to this compact.

"(c) Nothing in this compact shall be construed to affect any aspect of employer-employee relations, including without limitation, statutes, rules or regulations governing industrial health and safety.

"ARTICLE III

"POWERS AND DUTIES OF THE COMMISSION

"SECTION 301. GENERAL POWERS.—The commission shall:

"(1) Investigate the causes and sources of air pollution, identify air contaminants, and provide for research and the compilation and analysis of information relating thereto;

"(2) Establish, after consultation with the appropriate agency of the signatory parties, standards for air quality and requirements for the control of emissions of air contaminants to abate existing air pollution and to prevent future air pollution, subject to the provisions of article four of this compact;

"(3) Provide and administer plans and programs to effectuate such air quality standards and emission control requirements;

"(4) Promote, sponsor and conduct technical, educational and research programs and projects to identify and evaluate air contaminants and to develop and apply methods, systems and procedures for the abatement and prevention of air pollution;

"(5) Enforce or provide for the enforcement of the compact and rules and regulations lawfully promulgated thereunder; and

"(6) Furnish technical service, advice and consultation to agencies of the signatory parties: *Provided*, That the costs of such services may be reimbursed whenever the parties deem appropriate.

"SECTION 302. AUXILIARY POWERS.—In furtherance of the powers and duties elsewhere prescribed in this compact, the commission may:

"(1) Sue and be sued in a court of competent jurisdiction;

"(2) Have a seal and alter the same at pleasure;

"(3) Acquire, hold and dispose of real and personal property by gift, purchase, lease, license or other similar manner for its corporate purposes and accept grants and comply with the conditions thereof;

"(4) Provide for the organization and administration of the commission staff and retain and employ counsel and private consultants on a contract basis or otherwise;

"(5) Administer and enforce the provisions of this compact;

"(6) Make and enforce such rules and regulations as the commission may deem necessary to effectuate the purposes of this compact or to prevent the circumvention or evasion thereof;

"(7) By its members and its properly designated officers, agents and employes, administer oaths and issue subpenas throughout the region to compel the attendance of witnesses and the giving of testimony of the production of other evidence;

"(8) Have for its members and its properly designated officers, agents and employes, full and free access, ingress and egress to and from all property, premises and places in the reigon, for the purpose of making inspection or enforcing the provisions of this compact, where there is reasonable cause to believe there is a violation of this compact or of any rule or regulation lawfully made thereunder; and no person shall obstruct or in any way interfere with any such member, officer, employe, or agent in the making of such inspection, or in the enforcement of the provisions of this compact or in the performance of any other power or duty under this compact; and

"(9) Cooperate with and receive from any department, division, bureau, board, commission, or agency of any or all of the signatory parties, or of any county or municipality thereof, such assistance and data as will enable it properly to carry out its powers and duties hereunder, and may authorize and request any such department, division, bureau, board, commission or agency, with the consent thereof, to execute such of its functions and powers as the public interest may require.

"ARTICLE IV

"AIR QUALITY STANDARDS AND EMISSION CONTROL REQUIREMENTS

"SECTION 401. GENERALLY.—The commission shall have jurisdiction to abate existing air pollution and to prevent and control furture air pollution in the region, and to this end it shall:

"(1) Prepare and develop standards of air quality and emission control requirements for the region as required to protect the public health and welfare and prevent air pollution which would unreasonably impair the beneficial use of the air of the region. To this end, it shall encourage and conduct studies, investigations and research relating to air pollution and its causes, prevention, control and abatement.

"(2) For the purpose of such standards, the commission may establish and delineate districts and airsheds, seasonal requirements, and classifications of air contaminants by type and source, for general or selective application of such standards and emission controls.

"(3) Prior to the adoption of standards or emission control requirements, the commission shall hold public hearings upon due notice of the proposed standards, and all interested persons shall be given an opportunity to be heard at such hearing. After such notice and hearing, the commission may adopt and from time to time amend and repeal standards in the form of rules and regulations to prevent or control future air pollution and to abate existing air pollution, and to require the installation of such measures, systems and procedures for the abatement or prevention of air pollution as may be required to protect the public health, safety, property rights, and general welfare. Any such rule or regulation, amendment or repeal thereof shall take effect not less than sixty (60) days after its adoption by the commission and filing as required by law.

"SECTION 402. MONITORING; WARNINGS; EMERGENCIES.—The commission shall:

"(1) Provide for a uniform, comprehensive and integrated system for monitoring atmospheric waste in the region, the measurement and forecasting of air pollution, and the identification of significant meteorological, geographical, and ecological factors within the region, its districts or airsheds;

"(2) Establish and administer warning and alert procedures and systems with respect to impending and existing conditions of severe and immediately dangerous air pollution;

"(3) Upon authorization by any one of the signatory states, exercise emergency powers within those portions of the region lying within the authorizing state to require the reduction or cessation of emissions of air contaminants, and to require the taking or refraining from any other measure as may be necessary in the public interest to alleviate or abate the immediate danger.

"SEC. 403. ENFORCEMENT.—(a) The commission may, after such notice and hearing as may be required by due process of law, issue an order or orders to any person or public or private corporation, or other entity, to cease and desist from any emissions which it determines to be in violation of such rules and regulations as it shall have adopted for the prevention and abatement of air pollution. Any such order or orders may prescribe a schedule, including a reasonable time for the construction and installation of any necessary systems, methods and procedures, on or before which the emission of air contaminants shall be wholly or partially discontinued, modified or treated, or otherwise required to conform to the standards established by the commission. Any court of competent jurisdiction shall have jurisdiction to enforce by injunction in a summary manner against any person, public or private corporation, or other entity, any and all provisions of this article or of any such order. The commission may bring an action in its own name in any such court of competent jurisdiction to compel compliance with any provisions of this compact, or of any rule, regulation or order issued pursuant thereto, according to the practice and procedure of the court.

"(b) In the case of air pollution not within an interstate district or airshed as established by the commission, the commission shall give priority to enforcement proceedings by other agencies of the signatory parties; provided, however, that the provisions of this subdivision may not be asserted as a defense in any action or proceeding brought by the commission.

"SEC. 404. HEARINGS; SUBPOENAS.—(a) The commission shall establish by appropriate regulation the procedure to be followed in the conduct of its hearings. Neither the commission nor any person designated by it to conduct a hearing shall be bound by common law or statutory rules of evidence or by technical or formal rules of procedure in the conduct of such hearings.

"(b) The commission, or such member or officer of the commission as may be designated by the commission for that purpose, shall have the power to issue subpoenas effective throughout the region to compel the attendance of witnesses and the giving of testimony or production of other evidence, and to administer oaths in connection with any such hearing. It shall be the duty of the commission or of such member or officer of the commission as it may designate to issue subpoenas at the request of and on behalf of any party to a hearing before the commission. Subpoenas issued by the commission shall be enforced by any court of competent jurisdiction of the signatory parties, according to the practice and procedure of the court applicable to subpoenas issued in proceedings pending before it.

"SECTION 405. PENAL SANCTION.—Any person, association, or corporation who violates or attempts or conspires to violate any provision of this compact or any rule, regulation or order of the commission duly made, promulgated or issued pursuant to the compact, in addition to any other remedy, penalty or consequence provided by law, shall be punishable as may be provided by statute of any of the signatory parties within which the offense is committed: *Provided*, That in the absence of such provision, any such person, association or corporation shall be liable to a penalty of not less than fifty dollars and not more than one thousand dollars, for each such offense to be fixed by the court, which the commission may recover in its own name in any court of competent jurisdiction, and in a summary proceeding where available under the practice and procedure of such court. For the purposes of this section in the event of a continuing offense, each day of such violation, attempt or conspiracy shall constitute a separate offense.

"SECTION 406. JUDICIAL REVIEW.—Any order or determination of the commission under this article shall be subject to judicial review in any court of competent jurisdiction as provided by the law of a signatory party.

"ARTICLE V

"PERSONNEL AND PROCEDURES GENERALLY

"SECTION 501. POWERS OF THE COMMISSIONERS.—The commissioners, subject to the provisions of this compact, shall:

"(1) Serve as the governing body of the commission, and exercise and discharge its powers and duties except as otherwise provided by or pursuant to this compact;

"(2) Determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed and paid subject to any provisions of law specifically applicable to agencies or instrumentalities created by compact;

"(3) Provide for the internal organization and administration of the commission;

"(4) Appoint or provide for the appointment of the principal officers of the commission and delegate to and allocate among them administrative functions, powers and duties;

"(5) Create and abolish such offices, employments and positions as it deems necessary for the purposes of the compact, and subject to the provisions of this article, fix and provide for the qualification, appointment, removal, term, tenure, compensation, pension and retirement rights of its officers and employes;

"(6) Let and execute contracts to carry out the powers of the commission.

"SECTION 502. REGULATIONS: ENFORCEMENT.—The commission may:

"(1) Make and enforce reasonable rules and regulations in the form of an air pollution code or otherwise, for the effectuation, application and enforcement of this compact; provided that any rule or regulation, other than one which deals solely with the internal management of the commission, shall be adopted only after public hearing and shall not be effective unless and until filed in accordance with the law of the respective signatory parties applicable to administrative rules and regulations generally; provided further, that a certified copy of any such rule or regulation, attested as true and correct by the commission, shall be presumptive evidence of the regular making, adoption, filing and publication thereof; and

"(2) Designate any officer, agent or employe of the commission to be an investigator, and such person shall be vested with the powers of a peace officer of the state in which he is duly assigned to perform his duties.

"SECTION 503. CONFIDENTIAL INFORMATION.—Any records or other information furnished to or obtained by the commission in the exercise of its powers, functions and duties from any private person, corporation or other entity which records or information, as certified by the owner or operator, relate to production or sales figures, or to secret processes or production, or which if made known to others would tend to affect adversely the competitive position of such owner or operator, shall be retained solely for the use of the commission and its employes, in the administration and enforcement of this compact, and for the use of air pollution control agencies of the signatory parties in the administration and enforcement of state or federal law, and shall not be published or disclosed for any other purpose by any officer or employe of the commission or any other person without the written consent of such owner or operator.

"SECTION 504. OFFICERS GENERALLY.—(a) The officers of the commission shall consist of an executive director and such additional officers, deputies and assistants as the commission may determine. The executive director shall be appointed and may be removed by the affirmative vote of a majority of the full membership of the commission. All other officers and employes shall be appointed in such manner and under such rules of procedure as the commission may determine.

"(b) In the appointment and promotion of officers and employes for the commission, no political, racial, religious or residency test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be solely on the basis of merit and fitness. Any officer or employe of the commission who is found by the commission to be guilty of a violation of this section shall be removed from office by the commission.

"SECTION 505. MEETINGS; RECORDS.—(a) All meetings of the commission shall be open to the public.

"(b) The minutes of the commission shall be a public record open to inspection and copying at its offices during regular business hours, subject to the law relating to public records of the signatory states in which such minutes are located.

"SECTION 506. PROHIBITED ACTIVITIES.—(a) No commissioner, officer or employe shall:

"(1) Be financially interested, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the commission is a party;

"(2) Solicit or accept money or any other thing of value in addition to the compensation or expenses paid him by the commission for services performed within the scope of his official duties;

"(3) Offer money or any thing of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the commission.

"(b) Any officer or employee who shall willfully violate any of the provisions of this section shall forfeit his office or employment.

"(c) Any contract or agreement knowingly made in contravention of this section shall be void.

"(d) Officers and employes of the commission shall be subject in addition to the provisions of this section to such criminal and civil sanctions for misconduct in office as may be imposed by federal law and the law of the signatory state in which such misconduct occurs.

"SECTION 507. AUDIT.—The Commission shall provide for an annual independent audit of its accounts and financial transactions by a certified public accountant, and for the publication of the report of such audit.

"SECTION 508. TORT LIABILITY.—The commission shall be responsible for claims arising out of the negligent acts or omissions of its officers, agents and employes only to the extent and subject to the procedures prescribed by law generally with respect to officers, agents and employes of the government of the United States.

"ARTICLE VI

"GENERAL PROVISIONS

"SECTION 601. COMMISSION BUDGET.—The commission shall annually adopt a current expense budget for each fiscal year, and shall apportion the amount required to balance the expenditures therein, less estimated revenues from all sources, to the signatory parties in accordance with such equitable cost-sharing formulae as the members of the commission may adopt by unanimous vote. Following the adoption of its annual budget, the commission shall transmit certified copies of the budget to the budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The signatory parties covenant and agree to include the amount so apportioned for the support of the commission's current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in equal quarterly installments during the commission's fiscal year.

"SECTION 602. COOPERATION.—Each signatory party pledges faithful cooperation in the control of air pollution in the region and consistent with such object to enact (or if enacted, to keep in force and where necessary to amend) laws which will:

"(1) Enable it to secure and maintain standards of air quality at least equal to those prescribed by the commission;

"(2) Accomplish effectively the objectives of this compact, and enable its officers, departments, boards and agents satisfactorily to accomplish the obligations and duties assumed by the party under the terms hereof; and

"(3) Enable it to provide technical and administrative services to the commission upon request, within the limits of available appropriations, and to cooperate generally with the commission for the purposes of this compact, provided that the cost of such services may be reimbursable whenever the parties deem appropriate.

"SECTION 603. WITHDRAWAL FROM COMPACT.—(a) A signatory party may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until two (2) years after the chief executive of the withdrawing party has given notice of the withdrawal to the commission and to each commissioner.

"(b) No withdrawal shall affect any obligation of a signatory party or any person therein accruing prior to the effective date of the withdrawal, nor any abatement order of the commission issued prior to such effective date nor shall any proceeding initiated for the enforcement thereof be invalidated or otherwise affected thereby. The jurisdiction of all appropriate courts and agencies for the enforcement of any such order shall continue, notwithstanding the fact that the effective date of the withdrawal may have passed.

"SECTION 604. AMENDMENTS AND SUPPLEMENTS.—Amendments and supplements to this compact to implement the purposes thereof may be adopted by legislative action of any of the signatory parties concurred in by all of the others.

"SECTION 605. CONSTRUCTION AND SEVERABILITY.—The provisions of this compact and of agreements thereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such agreement is declared to be unconstitutional or the applicability thereof to any signatory party, agency or person is held invalid, the constitutionality of the remainder of such compact or such agreement and the applicability thereof to any other signatory party, agency, person, or circumstance shall not be affected thereby. It is the legislative intent that the provisions of such compact be reasonably and liberally construed.

"SECTION 606. EFFECTIVE DATE; EXECUTION.—(a) This compact shall become binding and effective thirty days after the enactment of concurring legislation by the federal government and the state of New Jersey. The compact shall be signed and sealed in six duplicate original copies by the respective chief executives of the signatory parties. One such copy shall be filed with each of the signatory parties in accordance with the laws of the party in which the filing is made, and the remaining copies shall be filed and retained in the archives of the commission upon its organization.

"(b) Thereafter, the compact shall become binding and effective separately as to each of the states of Connecticut and Delaware and the Commonwealth of Pennsylvania thirty (30) days after enactment of concurring legislation by such states or commonwealth."

SEC. 2. The President and the Congress or any committee thereof shall have the right to require the disclosure and furnishing of

such information by the Mid-Atlantic Air Pollution Control Commission as they may deem appropriate and shall have access to all books, records, and papers of the Commission.

SEC. 3. (a) Notwithstanding any other provision of this Act, nothing contained in this Act or in the compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education, and Welfare or of any other officer or agency of the United States, relating to air pollution.

(b) Nothing in this compact or this Act shall be construed as conferring jurisdiction on the commission over an air quality control region or regions under section 1857(a)(2) of title 42, United States Code, not wholly within the boundaries of the compacting states.

(c) Nothing in this compact or this Act shall be construed as requiring that the commission established by this compact serve as the air pollution control agency for any interstate air quality control region designated by the Clean Air Act, as amended by the Air Quality Act of 1967 (42 U.S.C. 1857a(c), 42 U.S.C. 1857(a)(2), 42 U.S.C. 1857c(a)(3), 42 U.S.C. 1857c-1(a), 42 U.S.C. 1857(b)(2), and 42 U.S.C. 1857h(B)(4))."

SEC. 4 The right of Congress to alter, amend, or repeal this Act is hereby expressly reserved.

The amendments were agreed to.

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

The preamble was amended, so as to read:

"Whereas the States of Connecticut, New Jersey, and New York have enacted the Mid-Atlantic States Air Pollution Control Compact substantially as hereinafter set forth, creating an intergovernmental, Federal-State agency for the control and abatment of air pollution in the Mid-Atlantic region; and

Whereas by its terms said compact will come into effect after the adoption of concurrent legislation by the Federal Government and the said States of Connecticut, New Jersey, and New York and may thereafter be entered into by the States of Delaware and the Commonwealth of Pennsylvania; and

Whereas the Congress favors the objectives of said compact and finds that its effectuation is in the public interest: Now, therefore, be it

The preamble as amended was agreed to.

HOLDING TERMS OF THE U.S. DISTRICT COURT FOR THE SOUTHERN DIVISION OF THE SOUTHERN DISTRICT OF MISSISSIPPI AT GULFPORT, MISS.

The bill (S. 3122) to provide for holding terms of the U.S. District Court for the Southern Division of the Southern District of Mississippi at Gulfport, Miss., was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 104(b)(4) of title 28 of the United States Code is amended to read as follows:

"Court for the Southern Division shall be held at Biloxi and Gulfport."

THE WESTERN INTERSTATE NUCLEAR COMPACT

The bill (S. 1628) granting the consent of Congress to the Western Interstate Nuclear Compact, and related purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the national policy to encourage and recognize the performance of functions by the States with respect to the peaceful use of nuclear energy in its several forms. The Federal Government recognizes that many programs in nuclear fields can benefit from cooperation among the States, as well as between the Federal Government and the States. The importance of the interstate compact as one means for promoting such cooperation is hereby declared as part of the intention of Congress, already expressed in part in Public Law 86-373 and 87-563, to facilitate the use of State jurisdiction in and over portions of the development and regulatory nuclear field.

SEC. 2. The Congress hereby consents to the Western Interstate Nuclear Compact, which compact is as follows:

"ARTICLE I. POLICY AND PURPOSE

"The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance, and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region's people.

"ARTICLE II. THE BOARD

"(a) There is hereby created an agency of the party states to be known as the 'Western Interstate Nuclear Board' (hereinafter called the Board). The Board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

"(b) The Board members of the party states shall each be entitled to one vote on the Board. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the Board are cast in favor thereof.

"(c) The Board shall have a seal.

"(d) The Board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Board shall appoint and fix the compensation of an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, and such other personnel as the Board may direct, shall be bonded in such amounts as the Board may require.

"(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

"(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of the old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

"(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

"(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (g) of this Article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Board.

"(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

"(j) The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

"(k) The Board annually shall make to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

"ARTICLE III. FINANCES

"(a) The Board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

"(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the Board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures,

the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

"(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II(h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II(h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

"(d) Any expenses and any other costs for each member of the Board in attending Board meetings shall be met by the Board.

"(e) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the Board.

"(f) The Accounts of the Board shall be open at any reasonable time for inspection to persons authorized by the Board, and duly designated representatives of governments contributing to the Board's support.

"ARTICLE IV. ADVISORY COMMITTEES

"The Board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, State and Federal Government, and may cooperate with and use the services of any such committes and the organizations which they represent in furthering any of its activities under this compact.

"ARTICLE V. POWERS

"The Board shall have power to—

"(a) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

"(b) Ascertain and analyze on a continuing basis the position of the West with respect to the employment in industry of nuclear and related scientific findings and technologies.

"(c) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, byproducts, and all other appropriate adaptations of scientific and technological advances and discoveries.

"(d) Collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology.

"(e) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

"(f) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

"1. Nuclear industry, medicine, or education, or the promotion or regulation thereof.

"2. Applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom.

"3. The formulation or administration of measures designed to promote safety in any matter related to the development, use, or disposal of nuclear energy, materials, products, byproducts, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

"(g) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific technological or industrial fields to which this compact relates.

"(h) Undertake such nonregulatory functions with respect to nonnuclear sources of radiation as may promote the economic development and general welfare of the West.

"(i) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

"(j) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states of their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

"(k) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, byproducts, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availbility or disposal practicable on an economic and efficient basis.

"(l) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.

"(m) Advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields.

"(n) Cooperate with the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

"(o) Act as licensee, contractor or subcontractor of the United States Government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the Board by this compact.

"(p) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other materials as it deems appropriate.

"(q) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents.

"The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

"Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to Article VI of this compact and the furnishing of aid in response thereto.

"Unless the party states concerned expressly otherwise agree, the Board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states.

"However, the plan or plans of the Board in force pursuant to this paragraph shall provide for reports to the Board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances.

"From time to time, the Board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

"(r) Prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the Board by this compact.

"(s) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

"ARTICLE VI. MUTUAL AID

"(a) Whenever a party state, or any state or local governmental authorities therein, request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

"(b) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

"(c) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

"(d) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

"(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in connection with such requests: provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

"(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain

injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

"ARTICLE VII. SUPPLEMENTARY AGREEMENTS

"(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate.

"No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the Board.

"(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

"(d) The provisions to this Article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

"ARTICLE VIII. OTHER LAWS AND RELATIONS

"Nothing in this compact shall be construed to—

"(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

"(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress; nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor.

"(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

"(d) Permit or authorize the Board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

"ARTICLE IX. ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL

"(a) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

"(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law: *Provided*, That it shall not become initially effective until enacted into law by five states.

"(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

"(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the Board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that Article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the Board, unless it has become a full party to the compact.

"ARTICLE X. SEVERABILITY AND CONSTRUCTION

"The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact of such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof."

SEC. 3. Pursuant to Article II(a) of the Western Interstate Nuclear Compact, there shall be one representative of the Federal Government on the Western Interstate Nuclear Board. The representative shall be appointed by the President and he shall report to the President either directly or through such agency or official as the President may specify. His compensation shall be in such amount as the President shall specify: *Provided*, That if the representative be an employee of the United States, he shall serve without additional compensation. The compensation, travel expenses, office space, stenographic, and administrative services of the representative shall be paid from any available appropriations selected by the head of such agency or agencies as may be designated by the President to provide such expenses.

SEC. 4. The Atomic Energy Commission; the National Aeronautics and Space Administration; the Secretary of Health, Education, and Welfare; the Secretary of Commerce; the Secretary of Labor; the Secretary of Agriculture; and the heads of other departments and agencies of the Federal Government are authorized, within available appropriations and pursuant to law, to cooperate with the Western Interstate Nuclear Board.

SEC. 5. Copies of the annual reports made by the Western Interstate Nuclear Board pursuant to article II(k) of the Western Interstate Nuclear Compact shall be transmitted to the President and to the Joint Committee on Atomic Energy of the Congress.

SEC. 6. The consent to the Western Nuclear Compact given by this Act shall extend to any and all supplementary agreements entered into pursuant to article VII of such Compact: *Provided*, That any such supplementary agreement is only for the exercise of one or more of the powers conferred upon the Western Interstate Nuclear Board by article V of such compact.

SEC. 7. The right to alter, amend, or repeal this Act is expressly reserved.

SEC. 8. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information or data by the Western Interstate Nuclear Board as is deemed appropriate by the Congress or any such Committee.

MARCOS ROJOS RODRIGUEZ

The bill (S. 1187) for the relief of Marcos Rojos Rodriguez, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Marcos Rojos Rodriguez of San Antonio, Texas, the sum of $15,000, in full satisfaction of all claims of the said Marcos Rojos Rodriguez against the United States for compensation for permanent personal injuries suffered by him as the result of the accidental explosion of practice ammunition which United States Army Air Corps personnel negligently lost in a farm area and which was found by the said Marcos Rojos Rodriguez, in May 1925, while being employed as a farm laborer in such area: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of service rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-965), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to authorize and direct the Secretary of the Treasury to pay Marcos Rojos Rodriguez $15,000 in full satisfaction of his claims against the United States for injuries suffered by him as the result of the accidental explosion of practice ammunition, negligently lost in a farm area by U.S. Army Air Corps personnel, and found by Marcos Rojos Rodriguez in May 1925.

The facts of the case are as follows:

The Department of the Army is not opposed to the enactment of this legislation.

Department of the Army records disclose that bills for the relief of Marcos Rodriguez were introduced, but not enacted, in the 69th, 70th, 71st, 72d, and 73d Congresses. These bills would have awarded Juan Rodriguez, father of Marcos Rodriguez, $900 for injuries sustained by his son and expenses incurred as a result of an explosion of a bomb in a field at Kelly Aviation Field, San Antonio, Tex., on May 28, 1925.

Department of the Army records also disclose that a claim for $3,000 was filed by Juan Rodriguez for injuries to his son that resulted from the May 28, 1925, explosion. The incident was investigated and the facts developed were reported to the War Department. The claim file was referred to The Judge Advocate General for advice. The Judge Advocate General summarized the claim file as follows:

"The papers in reference show that Marcos Rodriguez, 13 years old, the son of the claimant, found, on May 28, 1925, a Mark I bomb fuse (Barlow type) in a potato field immediately north of and adjacent to Kelly Field, Tex.; that the child pounded the fuse upon a wagon wheel causing it to explode in his right hand and blowing off the thumb and first and middle fingers thereof; that the commanding officer at Kelly Field on June 4, 1925, appointed a board of officers under Army regulations to consider claims for damage or loss of private property; that this board met at Kelly Field, Tex., on July 13, 1925, to consider the claim of Juan Rodriguez; that the claimant under date of July 3, 1925, presented in writing a claim in the sum of $3,000 for the injury to his son; that the testimony before the board of officers shows that the fuse found in the potato field by young Marcos Rodriguez was a Mark I bomb fuse (Barlow type) and that the condition of the same indicated that it had been lying [sic] out in the weather for some time, possibly 2 or 3 years; that no evidence was adduced to account for the presence of the bomb fuse in the potato field; that the board found that Marcos Rodriguez, 13 years old, son of Juan Rodriguez, lost a thumb and first two fingers of his right hand by reason of the explosion of a Mark I bomb fuse (Barlow type) which he found on a potato field immediately north of and adjacent to Kelly Field, Tex.; that the claim was one the settlement of which was not provided for by any specific law and should be considered in accordance with paragraph 10, Army Regulations 35–7020; that the injuries received by Marcos Rodriguez in the opinion of the board reasonably supported a claim for $900; that the injury was not due wholly or in part to any fault or neglect on the part of the claimant or his son, but was probably due in part to ignorance and lack of experience on the part of the child; that the injury was not due wholly or in part to any fault or negligence of officers or employees of the Government; that the board recommended that the Secretary of War submit to the Congress a draft of proposed legislation for relief of the claimant in the sum of $900; that the proceedings of the board were approved by the commanding officer at Kelly Field and forwarded through military channels; that on August 17, 1925, the claimant, Juan Rodriguez signed a writing in which he stated his willingness to accept $900 in full settlement of the damages."

It was not clear to the Secretary of War whether the claim submitted by Juan Rodriguez was for damages sustained by him or his son, Marcos Rojos Rodriguez, and the Secretary did not forward the claim to Congress as the claims board recommended. On January 11, 1927, Congressman Wurzback of Texas introduced H.R. 16204, 69th Congress, to award Mr. Rodriguez $900. In response to a request for the views of the War Department on H.R. 16204, the Secretary of War forwarded Congress a copy of the claim file and neither favored nor opposed the bill. A copy of the claim file has not been found in Department of the Army records, however, a copy is in the National Archives files on H.R. 16204, 69th Congress.

The Department of the Army has no objection to the compensation of Mr. Rodriguez for his injuries. It is observed that $900 (the amount recommended by the claims board and the amount mentioned in the previous bills) invested in 1925 at 6 percent compounded annually would now amount to more than $10,000. Had the $900 been invested in appreciating property producing 6 percent income reinvested annually, the present worth would exceed $15,000. A study of Texas jury verdicts for the period 1900 to 1960 indicated that, had Mr. Rodriguez been able to obtain a judgment of $15,000 for his injuries, the judgment, while generous, would not have been excessive.

Prior to 1943, Mr. Rodriguez could obtain no compensation for injuries incurred in this manner other than by congressional action. None of the five bills introduced for his relief was enacted. When administrative settlement of noncombat personal injury claims was authorized in 1943 (act of July 3, 1943, 57 Stat. 372), administrative relief was limited to the reasonable medical and hospital expenses actually incurred. Although a claimant might petition Congress for additional compensation, administrative settlement of claims for other than reasonable medical and hospital expenses actually incurred was not authorized until the enactment of the act of September 2, 1958 (72 Stat. 1461). Damages for noncombat personal injury claims are now determined under the laws of the place where the act or omission causing the injury occurs (10 U.S.C. 2733, par. 11, AR 27–21).

In view of the foregoing, an award of $15,000 for the damages suffered by Mr. Rodriguez is not unreasonable and enactment of the bill would not be, under the circumstances, preferential or precedential.

The committee, after a study of all of the foregoing, concurs in the report of the Department of the Army and recommends that the bill, S. 1187 be considered favorably.

THE PUBLIC MARINE FISHERIES COMPACT

The bill (H.R. 13407) to consent to the amendment of the Public Marine Fisheries Compact was considered, ordered to 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. 91–973), explaining the purposes of the measure.

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

PURPOSE

The purpose of H.R. 13407 is to grant the consent and approval of the Congress to amendments to the Pacific marine fisheries compact.

The amendments to the compact would have the effect of (1) recognizing the adherence of the States of Idaho and Alaska to the compact in addition to the three original member States (California, Oregon, and Washington); (2) modifying the reference to the Pacific Ocean by the additional wording "and adjacent waters" in recognition of the State of Alaska's jurisdiction over the Bering Sea; and (3) providing a more equitable way of apportioning costs of the activities of the Pacific Marine Fisheries Commission.

STATEMENT

The House Report on H.R. 13407 relates the following:

Legislative background

The Pacific marine fisheries compact, which provides for the establishment of a Pacific Marine Fisheries Commission, was enacted by California, Oregon, and Washington in their 1947 legislative sessions. In accordance with article I, section 10, of the Constitution of the United States, in July of 1947 the Congress ratified the compact (61 Stat. 419).

In October of 1962 the Congress enacted Public Law 87–766, which added a new article XII to the compact to permit the States of Alaska and Hawaii and any other State having rivers or streams tributary to the Pacific Ocean to become members. The State of Idaho became the fourth member of the compact in 1963 and Alaska became the fifth in 1968.

The purposes of the compact are to promote the better utilization of fishery resources which are of mutual concern to the member States and to develop a joint program of protection and prevention of the physical waste of such fisheries.

H.R. 13407 was introduced August 7, 1969, by Congressmen Pelly, Wyatt, and Pollock and Congresswoman Hansen of Washington.

The Subcommittee on Fisheries and Wildlife Conservation held hearings on the legislation on September 22, 1969. All witnesses testifying at the hearings enthusiastically supported the legislation and all departmental reports filed on the legislation were favorable.

Your committee was unanimous in recommending passage of H.R. 13407.

BACKGROUND AND NEED FOR THE LEGISLATION

The fishery resources of the Pacific Ocean are abundant, yet not inexhaustible, and there are many problems associated with achieving coordinated development and conservation of the fishery resources of the Pacific Ocean. A great part of this resource is migratory, such as the salmon, which moves freely and without regard to State or international boundaries.

If the depletion of the Pacific fishery resources is to be prevented there must be, in addition to effective international agreements, wholehearted cooperation and coordination among the States which contribute to the fishery resources of the Pacific Ocean.

The Pacific Marine Fisheries Commission, which was established by the compact, consists of representatives from each of the member States. The Commission serves to focus attention on fishery problems of concern to two or more member States. Its annual meetings provide an excellent opportunity for fishery officials to discuss their programs and to coordinate research and management activities.

In recent years the Commission has called to the attention of regulatory and legislative bodies such matters as seismic exploration and oil drilling operations off the coast of Oregon and Washington, problems relating to salmon migration in the Columbia River, support for the Bureau of Commercial Fisheries' efforts to develop a viable hake fishery, and to problems arising from off-reservation salmon fishing by various Indian tribes.

The Commission has no regulatory powers but is essentially an investigating and research body with authority to submit specific recommendations to the respective States for adoption by the legislature or State agency having authority to act. The fishery research agencies of the compact States act in collaboration as the official research agency of the Commission. Since its inception, the Commission has coordinated extensive research activities on groundfish, pelagic fish, salmon, and shellfish; status reports have been provided on established and developing fisheries; statistics have been compiled on otter trawl landings; recommendations have been made for concurrent action by coastal States to modify gear and alter regulations to conserve the resource; and miscellaneous data on salmon, herring, and halibut has been supplied at the request of the Office of International Affairs, Bureau of Commercial Fisheries.

The expenses of the Commission are paid by the member States. The annual contributions are made according to the primary market value of the products of their fisheries, as recorded in the latest published reports (5-year average). No State may con-

tribute less than $2,000 annually toward the cost of the Commission.

AUTHORIZING THE SECRETARY CONCERNED TO MAKE PARTIAL PAYMENTS ON CERTAIN CLAIMS WHICH ARE CERTIFIED TO CONGRESS

The bill (H.R. 4247) to amend section 2743 of title 10, United States Code, to authorize the Secretary concerned to make partial payments on certain claims which are certified to Congress and to provide equivalent authority for administrative settlement and payment of claims under section 2733 of title 10, and section 715 of title 32, United States Code, was considered, ordered to 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. 91–972), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to amend section 2734 of title 10 of the United States Code, so that when a foreign claim is found to be meritorious in excess of the $15,000 figure authorized as the maximum amount for administrative settlement under the section, the Secretary can make a payment in that amount and certify the balance to Congress for payment.

The amended bill provides that the authority for payment of military claims under section 2733 of title 10 be increased to $15,000, the amount authorized for foreign claims under section 2734, and that a similar provision for partial payment be provided for such claims. The amended bill further provides that the provisions of section 715 of title 32 of the United States Code be amended to provide the same authority for parallel provisions governing claims arising from certain National Guard duty or training activity.

STATEMENT

The House Report on H.R. 4247 relates the following:

"The Department of the Air Force in behalf of the Department of Defense in a report to this committee on the bill recommended that authority be granted the Secretary concerned to make a partial payment of $15,000 where a claim under section 2734 of title 10 is found meritorious in an amount in excess of the $15,000 limit fixed in that section. The section in subsection (d) now requires that a claim in excess of that amount must be certified to the Congress for payment and no payment can be made on the claim until the Congress has acted. This, of course, imposes a hardship on persons who have suffered the greater losses, for if a claim is settled for a lesser amount, it can be paid administratively. The report of the Department of the Air Force notes that the military claims provisions of section 2733 of title 10 authorize partial payments in connection with claims settled under the authority of that section. This partial payment provision originated as a bill before this committee in the 85th Congress and the committee is satisfied that this procedure has proven to be a practical and valuable aid in the settlement of claims. Under this procedure, when a service has come to an agreement with the claimant concerning the amount to be paid and has received a signed claims settlement agreement, section 2733 authorizes a partial payment up to $5,000 and the balance is certified to Congress for payment. The committee agrees that it is logical that a partial payment provision be included in the provisions of section 2734 of title 10 concerning claims which arise as the result of noncombat activities of our military forces in foreign countries or as the result of damage or injury which is caused by a member or civilian employee of our military forces in a foreign country.

"The bill, H.R. 4247, was the subject of a subcommittee hearing on Wednesday, March 26, 1969. At that time, representatives of the Army, Navy, and Air Force appeared to testify in support of the bill. The testimony presented by the witnesses on that date referred to the facts outlined above concerning the purpose and scope of the amendment proposed in the bill. The testimony at the hearing further pointed out that the enactment of this provision will not result in increased cost to the United States. The difference, of course, is that the partial payments will be paid from appropriations of the department concerned with the balance certified to Congress for payment by later appropriation. Presently direct appropriations by the Congress are made for the full amount of the amount of the settled claim. It was also suggested that the words 'to Congress' be added to the bill following the word 'excess' on line 8 of page 1. The committee notes in this respect this would conform the language of subsection (d) of section 2734 to the language presently found in subsection (d) of section 2733 and subsection (d) of section 715 of title 32 of the United States Code.

"At the hearing on March 26, 1969, reference was made, as has been noted, to section 2733 of title 10, the section known as the Military Claims Act. A similar provision concerning National Guard claims, section 715 of title 32 of the United States Code, was also referred to at the hearing. The two sections just mentioned are similar in that they relate to claims arising from military activity. Section 715 was enacted into law in 1960 and the bill which proposed this addition to title 32 originated as a bill before the committee. The provisions of section 715 were patterned after the provisions of section 2733 and provide parallel authority for settlement of claims arising from certain training activities and duty by National Guard personnel. At the hearing the witnesses were questioned as to why authority had been provided for the settlement of claims by foreign nationals up to $15,000 when the provisions of section 2733 of title 10 and section 715 of title 3 limited administrative authority for the payment of claims to $5,000. It was pointed out that the latter provisions relate to claims by citizens of the United States and that the provisions of section 2734 expressly exclude claims by our own nationals. It is also relevant to note that the Military Claims Act provisions of section 2733 are worldwide in their application and it is conceivable that in a foreign area an incident may give rise to claims by foreign nationals under section 2734 and by our own nationals under section 2733. It is illogical and also unfair for the limitations for administrative payment to be different. The information supplied to the committee concerning the value and application of section 2734 in the settlement of claims overseas demonstrates that this has been a valuable and important piece of legislation. The prompt and fair settlement of claims under the authority of that section has often been an important factor in limiting the adverse effects of unfortunate accidents and incidents overseas which might otherwise have increased resentment on the part of foreign nationals and caused difficulty for the United States. Testimony at the hearing on March 26, 1969, referred to the settlement of claims arising out of the Palomares incident in Spain. Numerous claims were asserted when two U.S. aircraft collided over Spain. In that claims settlement program, the authority for settlement was provided in section 2734. The authority provided in section 2733 is a valuable means for the settlement of military claims. On a number of occasions special legislation has passed the Congress removing the limitation on administrative settlement in section 2733 in order to permit the settlement of a group of claims resulting from the crash of aircraft within the United States. The most recent of such bills is Public Law 89–65, which permitted the settlement of claims arising out of the crash of an Air Force aircraft at Wichita, Kans. The experience in connection with special legislation as well as the experience referred to above in connection with the claims program associated with the claims at Palomares, Spain, demonstrates in the minds of the committee that the amendment proposed to section 2733 of title 10 and section 715 of title 32, to increase settlement authority to $15,000 and provide partial payment authority in that amount of claims adjudicated in greater amounts, is a logical and needed step. It is therefore recommended that the bill be amended to provide such authority as well as adding the words 'to the Congress' recommended by the Air Force, and that the amended bill be considered favorably."

The committee after a review of all of the foregoing concurs in the action taken by the House of Representatives and recommends that the bill, H.R. 4247, be considered favorably.

DISCONTINUANCE OF ANNUAL REPORT TO CONGRESS ON ADMINISTRATIVE SETTLEMENT OF PERSONAL PROPERTY CLAIMS OF MILITARY PERSONNEL AND CIVILIAN EMPLOYEES

The bill (H.R. 4246) to discontinue the annual report to Congress as to the administrative settlement of personal property claims of military personnel and civilian employees was considered, ordered to 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. 91–97), explaining the purpose of the measure.

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

PURPOSE

The purpose of the proposed legislation is to repeal section 3(e) of the Military Personnel and Civilian Employees Claims Act of 1964 so as to permit Federal agencies to discontinue annual reports to Congress of administrative settlements of personal property claims of military personnel and civilian employees.

STATEMENT

The House report on H.R. 4246 relates the following:

The Department of the Army in its report to the committee in behalf of the Department of Defense strongly recommended the favorable consideration of the bill. This position was cleared and approved by the Bureau of the Budget and therefore represents the position of all departments and agencies included within the coverage of the Military Personnel and Civilian Claims Act of 1964, as amended, 31 U.S.C. 240, 241, and 242.

Subsection (e) of section 3 of the act now requires that the head of each agency must report each year to Congress on claims settled under this section. The Department of the Army in its report noted that these detailed reports are burdensome and expensive to prepare and are of doubtful value. The report must include for each claim the name of the claimant, the amount claimed, and the

amount paid. Other claims statutes administered by the military departments do not require such a detailed annual report to Congress. Similar reporting requirements were formerly contained in the so-called Maritime Claims Settlement Act (10 U.S.C. 4805 and 9805) and the so-called Federal Tort Claims Act (28 U.S.C. 2673) but these requirements were repealed by the act of June 29, 1960, Public Law 86-533 (78 Stat. 247), and the act of November 8, 1965, Public Law 89-348 (78 Stat. 1310), respectively.

In considering this legislation, the committee has reviewed the legislative history of Public Law 86-533 and Public Law 89-348. In the report of the House Committee on Government Operations (H. Rept. 1458 of the 86th Cong., second sess.) on S. 899, the bill which became Public Law 86-533, the committee discussed the reasons justifying discontinuing the reports then required under sections 4805 and 9805 of title 10, United States Code. These sections required reports concerning admiralty claims settled under sections 4802, 4803, 4804, 9802, 9803, and 9804 of that title. Sections 4802 and 9802 permit the settlement and payment of claims against the United States for $500,000 or less, with provision for certification of claims which exceed that amount to the Congress for payment. Sections 4803 and 9803 concern admiralty claims by the United States and provide authority for settlement when the amount to be received by the United States does not exceed $500,000. Sections 4804 and 9804 concern settlements and receipt of payment for claims by the United States for claims for salvage services performed for a vessel by the Army or Air Force, respectively. The purpose of these sections have been detailed to show the nature of potential claims that were involved. It was concluded in 1960 that the reports required in sections 4805 and 9805 of title 10 were unnecessary and the Government Operations Committee noted that the records concerning the claims would be maintained and the information would continue to be available to Congress. It was further noted that from a practical standpoint, there was no need for the reports.

The other precedent referred to by the report of the Department of the Army on the present bill is that of the deletion of a requirement of annual reports of administrative settlements of tort claims pursuant to section 2672 of title 28. This section, which then permitted settlements up to $2,500, now permits the settlement of claims by the head of each Federal agency or his designee in the amount of $25,000 or less, or, when prior approval is given by the Attorney General, in any amount. As has been noted, in 1965, section 2673, the section which required annual reports of settlements under section 2672, was repealed by Public Law 89-348. In House Report 1169 of the 89th Congress, first session, the Committee on Government Operations stated concerning the report under section 2673 "Such reports are of no value to preparing agencies and of no known use to Congress. Data relating to each claim are reviewed by the General Accounting Office and are available for review by the Congress whenever such action may be desired."

The committee has concluded that both of the laws referred to above can be taken as precedents for the repeal of the reporting requirement contained in section 3(e) of the Military Personnel and Civilian Claims Act of 1964. The bill, H.R. 4246, was the subject of a subcommittee hearing on March 18, 1969. The testimony presented at that hearing established that the conclusions of the Government Operations Committee in connection with the changes effected in 1960 and 1965 are applicable to this reporting situation. The witnesses at the hearing pointed out that complete data as to each claim settled by the departments and agencies will be available to the Congress. This point was also made in the report of the Department of the Army. That report also noted that information concerning the number and amount of claims settled by the military departments under the Military Personnel and Civilian Claims Act of 1964 is furnished to the Congress each year in support of the annual budget estimates.

The Army noted in its report that enactment of this bill will result in substantial savings in administering the Military Personnel and Civilian Claims Act of 1964. The elimination of this report will result in a saving of material, storage space, and manpower, all of which the Army observed could be used for more essential governmental purposes. At the hearing the Army witness stated that the report prepared by the Army Claims Service is based on information submitted by claims approval and settlement authorities in the field. The Army report for fiscal year 1968 included over 37,000 claims and consisted of approximately 1,000 single spaced typed pages. It was estimated that the actual preparation of the report requires the services of personnel equaling one-half of a man-year or a cost of approximately $4,850. It was further noted that additional man-days are required for checking the report for completeness and accuracy. These figures did not take into consideration the number of man-hours spent in field offices in compiling the specific information necessary for this report. While the military departments handle a larger percentage of claims under this statute than do many of the other departments and agencies, it may be concluded that the preparation of each report requires a proportionate expenditure of time and effort by their personnel. This cost and effort on the part of Government personnel should be balanced by the utility and value of the report received. This committee has found that other than indicating the number of claims involved and giving some indication of the average size of the claim the information has not been of marked value to the committee.

The Military Personnel and Civilian Claims Act of 1964 was amended in 1965 as a result of the enactment of a bill which originated before this committee. Subsequent to that time the committee, and particularly its subcommittee with jurisdiction over claims, has considered the application and possible implementation of the act. In each instance the committee secured specific information from departments and agencies concerning claims settled under the act, and the committee's experience bears out the statements in the Department of the Army report that information of this sort is readily available to the Congress whenever it is needed.

In view of the factors outlined in this report and in the report of the Department of the Army which is set out following this report, the committee recommends that the bill H.R. 4246 be considered favorably.

The committee after a review of all of the foregoing concurs in the action taken by the House of Representatives and recommends that the bill, H.R. 4246, be considered favorably.

PIERRE SAMUEL DU PONT DARDEN

The bill (H.R. 3348) for the relief of the estate of Pierre Samuel du Pont Darden was considered, ordered to 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. 91-970), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to permit the administrator of the estate of Pierre Samuel du Pont Darden to file a claim for credit or refund of overpayment of Mr. Darden's Federal income taxes for the taxable year 1959 at any time within 1 year after the bill's enactment, and would permit a credit or refund of any such overpayment notwithstanding any period of limitations or lapse of time.

STATEMENT

House Report 1692 of the 90th Congress of the House Judiciary Committee relates the facts of the case as follows:

The bill, H.R. 7502 was the subject of a subcommittee hearing on June 19, 1968. The testimony at that hearing indicated that a tax refund claim referred to in the bill is based on the fact that there was an actual overpayment of the estimated tax paid by Pierre Samuel du Pont Darden for the year 1959 in April of that year. In its report on the matter, the Treasury Department has indicated that it is opposed to legislative relief in granting authority for the consideration of a refund claim on the ground that such relief would be discriminatory in that it would extend relief in an individual case where similarly situated taxpayers would not have the same relief. The committee has carefully considered this objection and feels that the circumstances of this particular case are sufficiently unique that it would not have the precedential effect ascribed to it by the Treasury Department.

First of all this case deals with an estimated taxpayment which was subsequently determined to have been greater than the amount which would have been due on the basis of a tax return filed by the executor of the taxpayer's estate after the taxpayer was held to have lost his life at sea. The circumstances of the death were the complicating factors which delayed the refund claim in this case. In substance, they were based on these facts:

In late November of 1959, Mr. Darden left his home in Norfolk, Va., stating that he and a friend were going to Florida by way of the inland waterway in a boat named *White Puss*. It later developed that he had advised an uncle that he was going to Bermuda but was not advising any member of his immediate family of the same. Since that time, Mr. Darden has not been heard from although the U.S. Coast Guard, Navy, Air Force, and merchant vessels made an extensive search in December of 1959.

The committee was advised that a Coast Guard report dated August 19, 1960, made several conclusions, conclusion 12 being "that on the basis of the evidence available in this case, no reasonable conclusion as to the whereabouts or status of the *White Puss* or its occupants can be reached at this time.

Mr. Colgate W. Darden, Jr., father of Pierre S. du Pont Darden, in 1961 or early 1962, discussed the legal problems involved with his lawyer and no conclusions were reached because of the law in Virginia that requires the passage of 7 years before presumption of death.

The father was contacted by phone at least twice by representatives of the Internal Revenue Service and on one occasion a representative of the IRS called at his home looking for Pierre S. du Pont Darden and was told the facts and appeared satisfied.

The testimony at the hearing indicated that from November 1959 until March 1965, when an administrator was appointed by court and date of death fixed, November 24, 1959, that no person was clearly charged with the care of the property of Pierre Darden.

The Treasury Department report indicated that prior to the actual court determination that Samuel du Pont Darden had lost his life at sea in November of 1959, there were some actions relating to the financial

affairs of the decedent. At the hearing, considerable testimony was presented in explanation of these particular actions. It appears that these were routine matters that were consistent with a temporary absence and consisted primarily of a deposit of certain checks to Samuel du Pont Darden's checking account. The transfer of fractional shares of stock indicated in the Treasury Department report to have been made by the father was stated at the hearing to have been accomplished by the company involved without any direction or authorization on the part of the father. In summary, it appears that the circumstances of the disappearance of the son plus the complex issues concerning the date of death or the presumption of death under applicable law served to complicate the filing of the refund claim which is the subject of this bill. Under these unusual circumstances, the committee feels that legislative relief is appropriate and accordingly, it is recommended that the bill be considered favorably.

The committee is in agreement with the conclusions reached by the House Judiciary Committee that this bill be favorably considered. Accordingly, the committee recommends favorable consideration of H.R. 3348 without amendment.

JOHN THOMAS COSBY, JR.

The bill (H.R. 2275) for the relief of John Thomas Cosby, Jr., was considered, ordered to a third reading, read the third time, and passed.

JOECK KUNCEK

The bill (H.R. 1698) for the relief of Joeck Kuncek was considered, ordered to 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. 91–968), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve Joeck Kuncek of all liability to the United States in the amount of $11,462.23, representing overpayments of retired pay made in the period from July 26, 1954, to January 1, 1967, as the result of administrative error. The bill would further authorize a refund of any amounts repaid or withheld by reason of this liability.

STATEMENT

The Department of the Army in its report on the bill stated that in view of the hardship imposed on the retired officer, the Department would not oppose the bill. The Comptroller General in a report on the same bill questioned legislative relief but stated that relief in this instance involves a matter of policy for the Congress to decide.

Mr. Joeck Kuncek enlisted on July 16, 1924, and served continuously until honorably discharged on October 27, 1942, in the grade of master sergeant to accept a commission as a second lieutenant, Army of the United States. On April 11, 1944, he was promoted to the grade of first lieutenant. On March 7, 1947, he was released from active duty as an officer and on March 10, 1947, he reenlisted in the Regular Army. On May 31, 1947, he was placed on the retired list and transferred to the Enlisted Reserve Corps, under Public Law 190, 79th Congress (now codified as 10 U.S.C. 3914), with credit for 22 years, 10 months, and 5 days active Federal service for basic pay purposes. On July 25, 1954, he was discharged from the Army Reserve, with 30 years of active and inactive service, and advanced to the grade of first lieutenant on the retired list under section 203(e), Public Law 810, 80th Congress, as amended (now codified as 10 U.S.C. 3964). Upon his advancement on the retired list he was entitled to retired pay based upon the basic pay for the grade to which advanced and his 23 years of active Federal service (a fraction more than one-half counts as a year). In recomputing his retired pay, Kuncek was erroneously credited with 30 years active federal service and paid 75 percent (30 times 2½ percent) of the basic pay for a first lieutenant instead of the authorized 57½ percent (23 times 2½ percent). As a result of this error, Kuncek was overpaid retired pay in the total amount of $11,462.23.

The facts outlined above and detailed in the departmental report demonstrate that the overpayment in this instance occurred as the result of an administrative error on the part of Government personnel in computing retired pay. The confusion occurred when combined active and inactive service were taken as a basis for the computation rather than the 23 years of active Federal service which should have been the basis for the computation. As has been noted this error was continued over the extended period of more than 12 years. The Department of the Army in its report states that its investigation had disclosed that these overpayments resulted solely from administrative error by the Department of the Army personnel. The Army further found that there was no indication that Mr. Kuncek was not justified in relying on the retired pay computation made by Army personnel. Similarly, the Army found that there was nothing to indicate a lack of good faith in receiving the monthly checks. The committee has further concluded that the fact that Mr. Kuncek is now approaching 66 years of age and other factors outlined in the Army report demonstrate that repayment is a clear hardship on the retired officer. In 1967, the Army stated that Mr. Kuncek's wife had suffered a heart attack 2 years previously and Mr. Kuncek had to negotiate a substantial personal loan to pay hospital and doctors' fees. The Army found that Mr. Kuncek had no property except a car given him by his children and that he has no source of income other than his retirement pay. In view of these circumstances the Army did not oppose the bill.

This bill is similar to many that the committee has favorably considered in the past few years. The overpayments to the serviceman were made through administrative error. The claimant received the overpayments in good faith and repaying the amount paid would impose undue financial hardship on the claimant. In view of these facts, the committee is of the opinion that the bill is meritorious and recommends it favorably.

Attached hereto and made a part hereof are the reports on a similar bill from the Department of the Army and the Comptroller General to the House Judiciary Committee.

THE PLYMOUTH-PROVINCETOWN CELEBRATION COMMISSION

The bill (S. 2916) to establish the Plymouth-Provincetown Celebration Commission was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in recognition of the three hundred and fiftieth anniversary, in 1970, of the landing of the Pilgrims at Provincetown and Plymouth, which lead to permanent settlements whose influence on our history, culture, law, and commerce extends through the present day, there is hereby established the Plymouth-Provincetown Celebration Commission (hereafter referred to as the "Commission"), for the purpose of developing suitable plans for, and conducting the celebration of, such anniversary in 1970.

SEC. 2. (a) The Commission shall be composed of fifteen members as follows:

(1) five Members of the Senate, to be appointed by the President pro tempore of the Senate;

(2) five Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and

(3) five members to be appointed by the President.

(b) The President shall, at the time of appointment, designate one of the members appointed by him to serve as Chairman.

(c) The members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(d) Within ninety days after the termination of such celebration, the Commission shall furnish a report of its activities, including an accounting of funds received and expended, to the Congress. Upon submission of such report to the Congress, the Commission shall terminate.

SEC. 3. In order to carry out the purposes of this Act, the Commission is authorized—

(1) to appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per diem;

(3) to accept and to utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(4) to solicit and to accept gifts of money or property;

(5) to procure supplies, services, and property, and to make contracts, without regard to the laws and procedures applicable to Federal agencies;

(6) to request the assistance and advice of, and to cooperate with, civic, historic and patriotic bodies, institutions of learning, and State and local governments;

(7) to request the cooperaton and assistance of such Federal departments and agencies as may be appropriate;

(8) to invite the participation of such other nations as may be appropriate, with the assistance and advice of the Department of State; and

(9) to make such expenditures as it may deem advisable from funds appropriated or received as gifts.

SEC. 4. Any property acquired by the Commission remaining upon termination of such celebration is the property of the United States and may be used by the Secretary of the Interior for purposes of the national park system or may be disposed of as surplus property. The net revenue, after payment of Commission expenses, is the property of the United States and shall be deposited in the Treasury of the United States.

SEC. 5. There is hereby authorized to be appropriated the sum of $100,000 to carry out the purposes of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–961), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to create a 15-member Plymouth-Provincetown Celebration Commission for the purpose of developing suitable plans for, and conducting the celebration of the 350th anniversary of the landing of the Pilgrims at Provincetown and Plymouth, which led to permanent settlement whose influence on our history, culture, law, and commerce extends through the present day.

STATEMENT

This Nation will celebrate the 350th anniversary in 1970 which recalls the courage of men who explored the New World. On September 6, 1620, the square-rigged English vessel *Mayflower* cleared Plymouth, England, carrying 101 passengers bound for America.

It seems fitting that the Congress should involve the Nation in the planning of the 350th anniversary of Provincetown—the site where the *Mayflower* first anchored and where the historic Mayflower Compact was drafted—and Plymouth, Mass.—the first settlement in English-speaking America.

To carry out the commemoration of this event the proposed legislation creates a 15-member Commission composed of five Members of the Senate to be appointed by the President pro tempore, five Members of the House of Representatives to be appointed by the Speaker of the House, and five public members to be appointed by the President of the United States, one of whom will be designated to serve as Chairman. The members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

Within 90 days after the termination of such celebration, the Commission shall furnish a report of its activities, including an accounting of funds received and expended, to the Congress. Upon submission of such report to the Congress, the Commission shall terminate.

Section 5 of S. 2916 would authorize an appropriation of $100,000 to carry out the purpose of this act. The committee has been advised that so far $134,000 has been received in private donations, $30,000 from the State of Massachusetts, $30,000 from the city of Plymouth and $20,000 from the city of Provincetown.

The committee has been furnished a justification for the $100,000 of Federal funds to carry out the purposes of the bill. The expenses of the Commission and the justification are as follows:

1. Funding of 1920 celebration compared to 1970 celebration

In 1920, the following funds were appropriated:

State funds	$300,000
Local funds	300,000
Federal funds	500,000

To date, the following funds have been appropriated or raised:

	1970
Private donation	$134,000
State funds	30,000
Local funds (yearly appropriation):	
Plymouth	30,000
Provincetown	20,000
Federal funds requested	100,000

2. Use of appropriated Federal funds

(a) Administrative expenses	$33,000–$40,000
Executive director	12,000–15,000
Assistant director	8,000–10,000
Secretary	6,000–8,000
Travel expenses	2,000
Office expenses	5,000
(b) Program expenses	60,000–67,000

1. *Capital improvements.*—The community of Plymouth plans to build a Pilgrim fountain to honor the founders of Plymouth. Total cost of the fountain $75,000. The Commonwealth of Massachusetts has agreed to absorb 50 percent of the cost. The Federal Government could bear 25 percent of the cost and the town of Plymouth would contribute 25 percent.

In addition, the town of Plymouth wishes to purchase privately held land which now separates two parcels of publicly owned land. Purchase of the land would allow the community to establish a large park within walking distance of Plymouth Rock.

2. *Program expenses.*—The Federal Government could assume the cost of producing a reenactment of "The Pilgrim Spirit"—a play written for the 300th anniversary celebration.

The Federal Government could assume the cost of informing the American people about the anniversary and encourage the participation of every State.

The Federal Government could assume the cost of planning and conducting the 350th anniversary of Thanksgiving, in November of 1971.

The Federal Commission could assist the local communities by gaining the aid and interest of appropriate Federal agencies and councils in program development for the anniversary celebration.

It is difficult to specifically enumerate the amounts of money such program involvement would require. It is also important to allow the Commission, once established, to develop its own ideas and programs to help focus national attention and foster national participation in this most significant historic anniversary.

The committee has been informed that England and Holland have already indicated their interest in participating in the 350th anniversary and both nations have planned their own celebrations to commemorate their ancestors' role in the successful voyage of the Mayflower and in the settling of the Plymouth Colony.

The committee after a review of the foregoing believes that the bill is meritorious and recommends favorable consideration of S. 2916, without amendment.

CARLETON R. McQUOWN

The resolution (S. Res. 193) to refer the bill (S. 1418) entitled "A bill for the relief of Carleton R. McQuown" to the Chief Commissioner of the Court of Claims for a report thereon, was considered and agreed to, as follows:

S. RES. 193

Resolved, That the bill (S. 1418) entitled "A bill for the relief of Carleton R. McQuown", now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the Court of Claims; and the Chief Commissioner of the Court of Claims shall proceed with the same in accordance with the provisions of section 1492 and 2509 of title 28, United States Code, and Report to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States and the amount, if any, legally or equitably due from the United States to the claimant.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–974), explaining the purposes of the measure.

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

PURPOSE

The purpose of this resolution is to refer the bill, S. 1418, entitled "A Bill for the Relief of Carleton R. McQuown," now pending in the Senate, together with all the accompanying papers to the Chief Commissioner of the Court of Claims, to authorize the Chief Commissioner of the Court of Claims to proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal, or equitable, against the United States and the amount, if any, legally or equitably due from the United States to the claimant.

Specifically, this resolution would send to the Court of Claims the question of whether the claimant is entitled to certain compensation payments from the United States for his undisputed overtime work while employed as an investigator by the Alcohol and Tobacco Tax Division, Internal Revenue Service, during the period from July 1, 1945, through June 30, 1955.

STATEMENT

Legislation authorizing Government compensation payment for the extensive overtime work of the claimant was introduced in the 87th, 88th, and 89th Congresses. In the 87th Congress a bill for relief was introduced, reported favorably by the House Judiciary Committee, and placed on the calendar. However, no floor action was taken. In the 88th Congress no action was taken on the bill. In the 89th Congress the bill was introduced again, and postponed in committee, primarily on the ground that no individual bill should be passed to compensate for overtime services until "a comprehensive study" of the matter were made.

Because of the difficulty involved in reintroducing this legislation in the House due to the adverse action in previous Congresses, and especially in view of the recent "study" by the U.S. Court of Claims,[1] a bill with an accompanying resolution referring the case to the Chief Commissioner of the Court of Claims was introduced in the Senate in the 90th Congress so that a report might be compiled on the merits. No action was taken by the Senate.

This bill and resolution are identical to those introduced in the 90th Congress.

The facts of the case as set forth in the 87th Congress by the House Judiciary Committee which reported the similar bill favorably after an extensive hearing regarding this claim, are as follows:

Mr. Carleton R. McQuown, Mr. Thomas A. Pruett, and Mr. James E. Rowles have appealed to Congress for overtime compensation for services they rendered the Alcohol and Tobacco Tax Division of the Internal Revenue Service. The nature of their work was such that these three employees found it impossible to work set hours or to confine their workday to the normal 8-hour day. These facts were discussed in a hearing held in connection with the bill H.R. 4950 on May 23, 1962. The testimony at that hearing indicated that they were often compelled to keep an illegal distillery under surveillance for hours at a time until the operators of the distillery appeared. It was the understanding of Mr. McQuown, Mr. Pruett, and Mr. Rowles when they assumed their duties with the

[1] *Tabutt et al.* v. *United States,* 121 Ct. Cl. 495 (1952); *Arnvid Anderson et al.* v. *United States,* 136 Ct. Cl. 365 (1956); *Albright et al.* v. *United States,* 161 St. Cl. 766 (1963); *Adams et al.* v. *United States,* 162 Ct. Cl. 766 (1963); *Byrnes* v. *United States,* 163 Ct. Cl. 167 (1963).

Alcohol and Tobacco Tax Division that in fact no regular working hours could be maintained and further that they would be subject to call at all hours of the day and night as the situation might require. The men were, therefore, under the impression that they had no choice in the matter but to perform their services without regard to time limitations. In this connection, the following statement was filed with the committee on the day of the subcommittee hearing:

"Re H.R. 4950 (Carleton R. McQuown, Thomas A. Pruett, James E. Rowles).

"To Whom It May Concern:

"I, W. Knox Johnston, former supervisor in charge of the Alcohol and Tobacco Tax Unit, U.S. Treasury, State of Georgia, with headquarters in Atlanta, Ga., having been appointed to the position of supervisor in 1934, and having served in said position until my retirement in 1954, had during this period of time, Carleton R. McQuown, Thomas A. Pruett, and James E. Rowles working under my immediate supervision.

"When they began working in the Alcohol and Tobacco Tax Unit, I instructed them that no regular working hours could be maintained, that they would be subject to call at all hours during the 24-hour day, and when assigned to an investigation, they would be required to complete the investigation regardless of the amount of time involved. All investigators who worked under my supervision were subject to 24-hour call, if necessary.

"When the Congress passed the overtime pay bill in 1945 covering Government employees, there was some question as to how it would apply to the men in our unit. As the particulars were not clear, I instructed the men that they were to continue working as in the past, as the work done by the investigators could not always be completed in a regular 8-hour workday. The men under my supervision were expected to continue their work until the assignment was completed regardless of the hours required.

"My office prepared a weekly statement of the number of hours of overtime worked by each investigator and it was submitted to the district office of the Alcohol and Tobacco Tax Unit.

"Should an investigator have failed to perform his duty as instructed, he would have been subject to reprimand, suspension, dismissal, or some other punitive action.

"This 16th day of February 1962.

"W. KNOX JOHNSTON."

At the hearing on the bill, Mr. McQuown appeared and testified in behalf of his own claim. Mr. McQuown was questioned as to their understanding regarding their entitlement to overtime and whether they made any effort to claim it during the period in which it was performed. Mr. McQuown replied:

"We never did anything because we were told—we were told that our overtime was being reported, and we were told that we would have to work or we would be fired; and we made no effort whatsoever to put ourselves in a position where our jobs would be jeopardized because I was at an age, if I was left out, I couldn't have gotten a job."

Subsequently, the men did submit claims and they were rejected by the Treasury Department.

The report of the Department of the Treasury on the bill opposed relief on the ground that the work performed by these men was "voluntary." This is the position adopted by the Comptroller General in disallowing the claims of Mr. McQuown, Mr. Pruett, and Mr. Rowles.

In view of the facts brought out in the hearing and in the material submitted to the committee, it is recommended that the bill be considered favorably.

The Secretary of the Treasury has consistently opposed enactment of this legislation as is evidenced in its reports in the 87th Congress and the 90th Congress.

The main issue raised in the case seems to be one of interpreting a statute, a question of law or equity. This would indicate that the proper procedure here would be to refer the case to the Chief Commissioner of the U.S. Court of Claims for his interpretation of the statute and its applicability to the particular facts of this case.

Therefore, in view of the question of law involved, the differences of opinion within the three branches of the Government, the resultant discrepancies in compensation awarded for overtime agency work, the equities of the particular situation, and the many recent decisions of the U.S. Court of Claims, this committee feels that, both practically and constitutionally, the case should be referred to the Chief Commissioner of the U.S. Court of Claims for a report on the merits since he would have more expertise on the subject and would be more capable to decide questions raised by this particular case. Accordingly, this committee recommends that the resolution be agreed to.

THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

The Senate proceeded to consider the bill (S. 3630) to amend the joint resolution establishing the American Revolution Bicentennial Commission, which had been reported from the Committee on the Judiciary with an amendment, strike out all after the enacting clause and insert:

That the joint resolution entitled "Joint resolution to establish the American Revolution Bicentennial Commission, and for other purposes", approved July 4, 1966, 80 Stat. 259), as amended, is further amended—

(1) by adding in section 2(b)(3) the words "the Secretary of Housing and Urban Development and the Secretary of Transportation," after the words "the Secretary of Commerce,";

(2) by deleting in section 6(c) everything after the word "section" and inserting in lieu thereof the words "3109 of title 5, United States Code.";

(3) by adding an additional section 6(g) to read as follows:

"SEC. 6. (g) Whoever, except as authorized under rules and regulations issued by the Commission, knowingly manufactures, reproduces, or uses any logos, symbols, or marks originated under authority of and certified by the Commission for use in connection with the commemoration of the American Revolution bicentennial or any facsimile thereof, or in such a manner as suggests any such logos, symbols, or marks, shall be fined not more than $250 or imprisoned not more than six months or both: *Provided*, That this section shall be applied upon publication in the Federal Register of notification of certification hereunder by the Commission with respect to each such logo, symbol, or mark.";

(4) by deleting section 7(a) and inserting in lieu thereof the following:

"SEC. 7. (a) There is authorized to be appropriated not to exceed $373,000 for the period through fiscal year 1971."

The amendment was 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. 91-976), explaining the purposes of the measure.

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

PURPOSE OF AMENDMENT

The purpose of the amendment in the nature of a substitute is to incorporate new language suggested by the Commission to carry out its purposes, and limit the authorization to $373,000 for fiscal 1971.

PURPOSE

The purpose of the proposed legislation, as amended, is to amend the joint resolution establishing the American Revolution Bicentennial Commission so as to add the Secretary of Housing and Urban Development and the Secretary of Transportation as members of the Commission and to authorize appropriations not to exceed $373,000 for fiscal year 1971.

STATEMENT

The American Revolution Bicentennial Commission was established on July 4, 1966, under provisions of Public Law 89-491 (80 Stat. 259). The statute places on the Commission the responsibility of planning, encouraging, developing, and coordinating the commemoration during the bicentennial era.

Broadly representative of both the Government and private citizens, the Commission has 35 members. Four are Members of the Senate who are appointed by the President of the Senate and four are Members of the House of Representatives appointed by the Speaker of the House. Also as members are the Secretary of State, the Attorney General of the United States, the Secretaries of the Interior, Defense, Commerce, and Health, Education, and Welfare, the Librarian of Congress, Secretary of the Smithsonian Institution, Archivist of the United States, and Chairman of the Federal Council on the Arts and Humanities.

Seventeen members are appointed by the President from private life, one of whom is designated by the President to serve as Chairman of the Commission.

Four of the 17 members appointed to the Commission by President Johnson in January 1967, are serving today. Three other members who were among the initial appointees have recently resigned from the Commission because of more pressing business commitments.

Central to the effective discharge of its responsibilities is the development by the Commission of a national plan of commemorative activities throughout the Nation. This is to be in the nature of a report to the President to be transmitted to the Congress recommending activities and observances during the bicentennial era which are appropriate to the bicentennial.

The original legislation establishing the Commission required this report to be submitted on or before July 4, 1968, subsequently extended by amendment to July 4, 1970. The amended legislation authorized appropriations and Congress appropriated $150,000 to the Commission in fiscal year 1969, $77,000 of which has been carried over to the current fiscal year. Fiscal year 1970 appropriations for the Commission amounted to $175,000, giving the Commission a total of $252,000 available during this fiscal year.

The first elements of the staff were organized during January 1969. New members of the Commission were appointed and others continued by President Nixon on July 3, 1969.

Since July 4, 1969, the full Commission has held five meetings and numerous meetings of its subcommittees. It has been given authority by the Bureau of the Budget to increase the size of its staff paid from its own funds from four to 10 full-time permanent employees.

The Commission is mindful that, as stated in the joint resolution, the bicentennial should be predicated on the ideas and principles on which the Nation was founded. The bicentennial offers America a compelling opportunity to review 200 years of freedom, to recall with justifiable pride the heritage, the growth, and the accomplishments of two cen-

turies, and to look forward to the Nation's third century, committing Americans, individually and collectively, to the fulfillment of those national goals which have not yet been achieved. As the Commission has stated, "Some of this work will be solemn—some will be festive, because the 200th birthday of our country should be at once a joyous celebration and a solemn rededication."

To be successful, however, the celebration of the bicentennial must be a truly national occasion, with a role and sense of personal involvement for every citizen, every community, and every organization. It is this sense of involvement that the Commission seeks to encourage in the discharge of its responsibilities.

The Commission's major efforts to date have been devoted to the collection of information and formulation of ideas to be included in the National Bicentennial Plan which will be submitted to the President. The plan will catalog programs and activities which are representative of the types of events appropriate to the occasion. The Commission and its staff are in contact with interested individuals and organizations in many fields of endeavor at the local, State, national, and international levels.

Indicative of the broad scope of the Commission's efforts to develop a coordinated program of commemorative activities throughout the Nation are the following:

1. The Governor of each State, territory, and of the Commonwealth of Puerto Rico has been asked to establish a bicentennial commission to work with the Commission and its staff in developing program plans and in generating a sense of involvement on the part of the people. Sixteen States and territories thus far have created such organizations. In addition, 23 Governors have appointed a representative in anticipation of the establishment of similar commissions. A number of cities have also established bicentennial commissions, and recommendations from all of these groups were to be submitted to the Commission by April 1, 1970.

2. The Commission has established six committees comprised of its members to work with national organizations in the fields of (*a*) arts and humanities; (*b*) commerce, agriculture, and labor; (*c*) events and expositions; (*d*) media; (*e*) patriotic, voluntary and service organizations; and (*f*) sciences. Recommendations from these committees were to be submitted by April 1, 1970.

3. Approximately 100 prominent citizens have been asked for their individual recommendations concerning the commemoration of the bicentennial.

4. Sixty Federal agencies have been asked to identify which of their programs and activities fall within the framework of the national plan.

5. The ex officio members of the Commission who represent the 10 departments and agencies are preparing their recommendations for participation in the bicentennial.

The Commission is seeking the broadest possible range of concepts appropriate for commemorating the Nation's bicentennial at National, State, local, and international levels. The results of these efforts are now beginning to bear fruit.

COMMEMORATION OF THE 100TH ANNIVERSARY OF YELLOWSTONE NATIONAL PARK

The joint resolution (H.J. Res. 546) authorizing the Secretary of the Interior to provide for the commemoration of the 100th anniversary of the establishment of Yellowstone National Park, and for other purposes, was considered, ordered to 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. 91–962), explaining the purposes of the measure.

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

PURPOSE

The purpose of the joint resolution is to designate the Secretary of the Interior to request the President to issue a proclamation designating the year 1972 as "National Parks Centennial Year," in recognition of the establishment on March 1, 1872, of the world's first national park, Yellowstone, and to plan the centennial activites. The resolution establishes a 15-member special Commission to prepare and execute plans for the commemoration of the 100th anniversary of the world's first national park, and provide host services for the world conference on national parks in 1972.

STATEMENT

To commemorate the 100th anniversary of the beginning of the national park movement, the joint resolution requests the President to issue a proclamation designating 1972 as "National Park Centennial Year" and creates a 15-member special Commission composed of four Members from the Senate, four Members from the House of Representatives, the Secretary of Interior, and six nongovernmental members appointed by the President from among persons having outstanding knowledge and experience in the fields of natural and historical resource preservation and public recreation. One of the Presidential members shall be appointed as Chairman of the Commission.

The Secretary of the Interior in a letter to the chairman of this committee states in part as follows:

We believe it is appropriate to designate the 100th year following the establishment of Yellowstone National Park as "National Park Centennial Year." We believe it is fitting that representatives of other nations be invited to participate in the national park centennial, since 1872 was also the beginning of a worldwide movement for national parks. A world conference on national parks, to be held at Yellowstone and Grand Teton National Parks in 1972, would be the appropriate vehicle for bringing together the knowledge and experience of all nations of the world in this field.

The joint resolution would establish a special Commission and would prepare and execute the plans for the commemoration of the 100th anniversary of the establishment of the world's first national park, and provide host services for the world conference on national parks in 1972. We expect that the Commission will develop and maintain special exhibitions on the national park system throughout the Nation, undertake important studies of the system for publication and distribution to schools and libraries, and encourage the development of nationwide and worldwide educational programs to promote the national park concept. This Department intends to recommend to the Commission that it include in its agenda such items as the preservation of natural habitats, protection of endangered species of fauna and flora, and education on conservation practices and problems required to maintain the national park concept. Of course, the Commission will have complete authority over what matters will be placed on the agenda.

The estimated annual cost of the Commission's activity in planning and executing the centennial celebration is expected to range from about $40,000 in the early years to $110,000 in 1972. These expenditures will include the costs of advance planning, travel, research, publications, and exhibits, and assistance in hosting a world conference on national parks. We estimate that approximately $850,000 will be needed for all aspects of the Commission's work. The joint resolution provides, however, that not more than $250,000 may be appropriated to carry out its provisions. We expect that a substantial amount of funds will be donated for purposes of the Commission and of the world conference, because of the national international significance of the national park centennial. The $250,000 authorized to be appropriated under this joint resolution will provide the funds for the initial establishment and operation of the Commission. The remaining costs will be provided from non-Federal sources.

The Secretary of the Interior estimates that approximately $850,000 will be needed for all aspects of the Commission's work. House Joint Resolution 546 as passed by the House of Representatives provides, however, that not more than $250,000 shall be appropriated out of Federal funds to carry out the provisions of this joint resolution. It is expected, in accordance with the plans of the Department of Interior, that the remaining $600,000 will be donated from non-Federal sources because of the national and international significance of the national parks centennial. It should be noted that the $250,000 of Federal funds would not be made available until the Commission first collected $300,000 from non-Federal sources.

This committee in accordance with the views of the Secretary of the Interior believes it is appropriate to designate the year 1972 as "National Parks Centennial Year." This committee also believes that it is appropriate to establish a Commission to carry out the purposes of the joint resolution. Accordingly the committee recommends favorable consideration of House Joint Resolution 546, without amendment.

COMMEMORATION OF THE 100TH ANNIVERSARY OF THE OHIO STATE UNIVERSITY

The concurrent resolution (H. Con. Res. 573) commemorating the 100th anniversary of the Ohio State University, was considered and agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–963), explaining the purposes of the measure.

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

PURPOSE

Purpose of the concurrent resolution is that the Congress sends congratulations and greetings to the Ohio State University on the occasion of the 100th anniversary of its founding, and extends the hope of the people of the United States that the Ohio State University will continue to grow and prosper in centuries to come.

STATEMENT

In 1970, the centennial year of the Ohio State University, the people of Ohio salute with pride their land-grant university for the many contributions it has made to the lives of people during its first 100 years.

Under the leadership of Dr. Novice G. Fawcett, president since 1956, the university has become one of the major centers of higher education in the world. In partnership with trustees, faculty, governmental officials, alumni, and friends of the university, President Fawcett has been instrumental in the development of teaching, research, and public service.

Ohio State's program attracts students from every county in Ohio, every State in the

Nation, and from 87 countries of the world. Enrollment in this centennial year will reach 50,000 students. The number of living graduates will reach 150,000 as Ohio State annually adds new alumni to serve in all the major fields of business and professional endeavor.

The university is a major resource for the future progress and well-being of the people of Ohio and of the Nation. To help insure that the full benefits of this great resource are available to the people, Ohio State has undertaken a centennial development fund. The fund is designed to make possible, through private gifts, the extra measure of financial support which can open the way to a new century of unprecedented service.

For its record of accomplishment during its first century; for its great potential for future contributions; for its able faculty and staff and its distinguished president, Dr. Novice G. Fawcett, the Ohio State University merits the commendation and support of the people of Ohio and of the Nation.

The committee is of the opinion that this concurrent resolution has a meritorious purpose and accordingly recommends favorable consideration of House concurrent resolution 573 without amendment.

CONGRATULATIONS AND GREETINGS TO OHIO NORTHERN UNIVERSITY ON THE 100TH ANNIVERSARY OF ITS FOUNDING

The concurrent resolution (H. Con. Res. 575), that the Congress sends congratulations and greetings to Ohio Northern University on the occasion of the 100th anniversary of its founding and extends the hope of the people of the United States that Ohio Northern University will continue to grow and prosper in centuries yet to come, was considered and agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-964), explaining the purposes of the measure.

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

PURPOSE

Purpose of the concurrent resolution is to provide that the Congress sends congratulations and greetings to Ohio Northern University on the occasion of the 100th anniversary of its founding and extends the hope of the people of the United States that Ohio Northern University will continue to grow and prosper in centuries yet to come.

STATEMENT

Ohio Northern University, of Ada, Ohio, will observe its centennial year from August 14, 1970, through August 13, 1971. The university of the United Methodist Church has 2,300 students enrolled in colleges of liberal arts, engineering, pharmacy, and law. It is one of the few institutions in the country combining a liberal arts curriculum with colleges of engineering, pharmacy, and law.

Since it was founded in 1871 by Dr. Henry Solomon Lehr, Ohio Northern University has graduated more than 20,000 persons. Today there are more than 11,000 living alumni serving their communities and the Nation in all 50 States in the Nation and in many foreign countries.

The following Ohio Northern University degree holders are currently serving in the U.S. Congress: William M. McCulloch, Delbert Latta, Frank T. Bow, and Jackson Betts. At one time four Ohio Northern University graduates were concurrently U.S. Senators: Frank B. Willis, Simeon D. Fess, Arthur J. Robinson, and John M. Robison.

One-third of the pharmacists in Ohio completed their college work at Ohio Northern University. More than 1,100 attorneys with law degrees from Ohio Northern University are serving in Ohio and neighboring States. In excess of 12,000 engineering graduates are employed by private industries, State, and county offices, as well as at the Federal level. And many hundreds of teachers, business leaders, and housewives are devoted alumni of this independent university.

The university has grown from a normal school serving northwest Ohio to one of the complex private universities in the State of Ohio. It has survived depressions which threatened it financially; it has survived wars which took its students; it has survived today's campus turmoil by standing on its principles. The university seeks to graduate students imbued with Christian ideals, accomplished in scholastic achievement, inspired with a desire to contribute to the good of mankind, and committed to a way of life that will result in a maximum of personal and social worth.

In recent years, the university has grown at an unprecedented rate in every way: academically, physically, and financially. A new liberal arts curriculum has gained widespread interest among educators. More than 42 percent of the 168 full-time faculty members have the doctorate degree and have attended more than 150 different colleges and universities. Ohio Northern University has a teaching faculty with research playing a secondary role.

The university is governed by a board of trustees of 42 members who determine the major basic policies. The trustees select the president of the university, who is Dr. Samuel L. Meyer, and delegate to him the authority and responsibility for the operation of the university.

The university is in the midst of a $6,910,000 development campaign. The campaign is expected to be successfully completed by the end of the centennial year in August of 1971. Funds will provide new buildings, operating funds, and more endowment.

The committee is of the opinion that this resolution has a meritorious purpose and accordingly recommends favorable consideration of H. Con. Res. 575.

THE POSTAL REORGANIZATION ACT

The Senate resumed the consideration of the bill (S. 3842) to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes.

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

The PRESIDING OFFICER (Mr. COOK). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. McGEE. Mr. President, may I ask the Chair, what is the pending business?

The PRESIDING OFFICER (Mr. COOK). The pending business is S. 3842, an act to reform the postal service.

Mr. McGEE. Mr. President, I send to the desk a series of amendments to the bill S. 3842, and ask that they be considered en bloc.

All but two of these amendments are technical, correcting typographical errors in the bill as reported.

Two amendments are substantive: One to limit the 8 percent salary increase for employees in the postal field service to a rate not higher than the rate now in effect for level V of the Executive Salary Schedule, which is $36,000 a year; and the other to permit a retired employee of the Government of the United States who is receiving a civil service retirement annuity to serve as a Governor on the Board of Governors of the U.S. Postal Service without having his salary reduced by the amount of his civil service retirement annuity, as is now done in the case of any reemployed annuitant.

The purpose of this amendment, in essence, is to permit the appointment of a retired postal officer or employee, whose expertise would undoubtedly serve the new agency well, to the Board of Governors without charging him a very substantial, or in some cases, a complete, reduction in his $10,000 a year salary as a Governor on the Board. By the same token, the amendment would prohibit such a reemployed annuitant to receive additional retirement credit based on his service as a Governor of the Board of Governors.

I ask that the amendments be agreed to.

The PRESIDING OFFICER (Mr. COOK). Without objection, the amendments will be printed in the RECORD, and without objection, the amendments are considered and agreed to en bloc.

The amendments agreed to en bloc are as follows:

On page 188, line 4, amend paragraph (6) so as to read:

"(6) may be redeemable before maturity in such manner, at such times, and at such redemption premiums as the Board may determine;".

On page 189, line 8, after the word "inheritance" delete the period and insert a comma in lieu thereof.

On page 196, between lines 1 and 3, in the small type indicating the subjects of the sections, in the line beginning "2701., delete the final "s" in the word "adjustments".

On page 209, line 14, delete the comma after the word "address".

On page 227, line 24, delete the hyphen between the words "upper" and "right-hand" so as to read "upper right-hand".

On page 230, line 16, strike out "other than any" and insert in lieu thereof "less an amount equal to the".

On page 237, lines 10 and 11, delete the words "recommended decision to the Commission for reconsideration and a further".

On page 244, line 6, strike out the number "3707" and insert in lieu thereof the number "3708".

On page 246, at line 15, strike out "(6)" and insert "(7)" in lieu thereof.

On page 251, line 3, delete the word "and".

On page 255, at line 25, insert the words "carrier or" after the word "any".

On page 256, at line 5, insert the words "carriers or" after the word "other".

On page 265, line 17, insert the word "the" after the word "of".

On page 268, between lines 18 and 19, insert the following:

(16) Section 8331(1) is amended—

(A) by striking out "or" at the end of clause (viii);

(B) by striking out the period at the end of clause (ix) and inserting in lieu thereof a semicolon and the following: "and"; and

(C) by adding at the end thereof the following:

"(x) a Governor of the Board of Governors of the United States Postal Service.".

(17) Section 8344 is amended by adding at the end thereof the following new subsection:

"(c) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service."

On page 271, lines 18 and 24, delete the word "the".

On page 280, line 22, insert "(a)" before "The".

On page 281, between lines 4 and 5, insert the following new subsection:

"(b) No rate of basic pay or compensation, in excess of the rate of basic pay for level V of the Executive Schedule in section 5316 of title 5, United States Code, shall be paid by reason of the enactment of this section.".

On page 283, line 8, add the letter "s" to the word "section".

On page 232, line 11, after the period insert the following:

"The rate for each such class shall be uniform throughout the United States, its territories and possessions.".

On page 232, line 13, insert "of such a class" after the word "letter" and strike out all after the word "origin" down through the word "addressee" in line 16.

On page 232, line 19, strike out the words "or parcel".

Mr. McGEE. Mr. President, I am reluctant to read a statement on the floor of the Senate because it violates a deep principle of mine, and I have never been caught in that act before. However, because of the occasion this is, and the subject at hand, it is especially forgivable that I do so because there are so few Senators in the Chamber at this late hour that it would do no violence to anyone's patience and I believe it is important that the carefully worded language of the description of this measure and its implications, in light of the committee's action, be made explicitly clear.

For all these reasons, I shall read the draft in order to lay the groundwork for the debate that will follow in the wake of laying down this bill, debate that will get underway, by agreement, sometime on Monday next.

Mr. President, the bill which the Committee on Post Office and Civil Service recommends for enactment by the Senate today, S. 3842, to improve and modernize the postal service and to establish the U.S. Postal Service is based on the critical needs which our Nation's postal system has faced for several years and the answers to these problems which the committee considers to be the most effective resolution to insure long-range improvement of all aspects of postal operations.

For many, many years officials of the Government and the public generally have taken too little notice of the gradually increasing problems of the Post Office. We have relied upon inefficient and expensive solutions of a short-range nature. It is neither relevant nor helpful to cite that 30 years ago, postal clerks and letter carriers were often recruited from among the ranks of college graduates; or that a postal job in a town of 5,000 or 6,000 people was always eagerly sought after because of its pay and security; or that the postal system will run itself if management will just leave the workers alone; or any of the other meaningless homilies, however well intended, which have been uttered in reference to the postal service in the past, as well as the present.

To paraphrase Mark Twain on the weather, everybody talks about poor postal service, but nobody does anything about it. I might inject the extra complication that we have about 200 million postmasters general in the United States. Each person has his own solution for the one part that seems to affect him. The legislation we recommend in S. 3842 will reverse that—we will do something about it.

The recent history of the Post Office Department is fairly well known. The Chicago mail strike at Christmas, 1966, alerted the Nation to the problem of a serious mail service breakdown. Larry O'Brien, then the Postmaster General, recommended the conversion of the Post Office Department from its historic position as a Cabinet-level executive department with a Postmaster General nominated by the President and confirmed by the Senate, and with most of its managerial officials appointed on the basis of political affiliation, to an independent, government-controlled corporation divorced as far as possible from the influence and pressures of partisan political considerations.

President Johnson appointed a Presidential commission, known as the Kappel Commission, which conducted a searching inquiry into all aspects of postal operations. In May 1968, the Commission confirmed Mr. O'Brien's recommendation that the Post Office be established as a public service agency outside of the normal channels of political government.

After several months' study in 1969, the Post Office Department in the Nixon administration endorsed the O'Brien-Kappel recommendation, proposing a government corporation to operate the postal service. In October 1969 the Senate committee began its public hearings and during most of this year the committee, either formally or informally, has been developing legislation to enact into law basic structural reform and reorganization.

In March of this year, postal workers in New York City and a few other large metropolitan areas walked off the job, and the Nation felt the first real paralysis of a postal strike. The Postmaster General and Deputy Postmaster General sat down with the representatives of the AFL–CIO craft unions in the postal service and negotiated an agreement to resolve the dispute. The first portion that agreement, a 6-percent increase in postal pay retroactive to the last pay period in December, was enacted into law in April, Public Law 91–231. The last portion of the agreement, establishing a new postal system and a further 8-percent increase in postal pay, is embodied in H.R. 17070, which recently passed the House, and S. 3842, the pending bill.

In the meantime, on March 19, the ranking minority member of the Senate Committee on Post Office and Civil Service (Mr. FONG) and I jointly sponsored S. 3613, a postal reorganization bill of our own making, and after numerous executive sessions and considerable discussion with the Postmaster General and the Deputy Postmaster General, the bill evolved into the form presented in S. 3842, as we introduced that measure on May 14. On June 3, the committee reported S. 3842 with an amendment in the nature of a substitute, but only the provisions relating to transportation of mail differ significantly from the bill as it was originally introduced by the Senator from Hawaii and me.

In the committee's judgment, there are four general problem areas in the postal system today that need to be resolved. Our bill is designed to meet those specific needs and give the new U.S. Postal Service the power, as well as the duty, to fulfill their delegated responsibility to operate a postal system as Congress, by article 1, section 8, of the Constitution is empowered to establish.

The four problem areas are these:

First. The organization of the Post Office as a Cabinet-level department of the executive branch, under the control of the incumbent political administration and subject to annual reviews of programs and spending by the Congress through its legislative oversight as well as its appropriations process;

Second. The lack of any significant control by the Postmaster General over either revenues or expenditures of the postal system;

Third. The inability to develop long-range postal modernization planning and to finance such planning on other than an annual basis subject to review by the Bureau of the Budget and the appropriations process; and

Fourth. The frequent change of the individuals serving in policymaking and administrative positions in the headquarters and regional offices of the Postal Service, which diminishes the effectiveness of management to understand and resolve problems.

My statement this afternoon will relate to the nature and effect of these problems and how the committee recommendation in S. 3842 proposes to solve them.

POSTAL ORGANIZATION

Mr. President, the first broad area requiring legislative change is that of the basic organization and structure of the Post Office Department. Since before the Constitution was ratified and our Government was established, the Post Office has existed as a Cabinet-level Department of the executive branch. The Postmaster General has always been a Member of the President's Cabinet and the dignity of his office has always been equated with the highest level of presidential appointments. To change that system involves a major policy judgment, but unless that system is changed we believe that the nature of our political institution will continue to make the Post Office heavily reliant upon the policies and programs of the encumbent political party and administration. Because we believe that policies and program developments are a negligible factor in the operation of the Post Office, we recommend the transfer of the postal service from a Cabinet department to an independent agency.

As part of the reorganization of the

system, another problem we faced was that of removing the post office from what is called partisan politics. As a politician, I find nothing wrong with politics in Government, any more than there is anything wrong with politics in business or education or anywhere else. I am confident that there will be politics in the Post Office whether it is a Government corporation or a subcommittee of the PTA. But what we specifically attempt to achieve, first of all, is to eliminate political affiliation or political recommendations from being a predominant or even an influential factor in the selection of people to work in the Post Office, whether such a person is the son of a county chairman or the president of a bank.

No Postmaster General, including Benjamin Franklin, was ever appointed to the job because he was an expert in postal operations. The role of political endorsement in the selection of postmasters and rural carriers and even the promotion of employees to supervisory positions, is historic and well known. In some cases, the selection from the civil service register as a clerk or carrier has been made on the basis of political endorsement over other equally well-qualified applicants. Regional directors, high-level headquarters officials, and most other jobs or positions above the rank-and-file echelon have been filled, at least most of the time, on the basis of what national party won the most recent election.

The Senate has expressed its judgment on this point on several occasions. In 1967, S. 355, which passed this Chamber by a vote of 72 to 9, included a provision to abolish the Senate confirmation of postmasters. In 1969, S. 1583 passed the Senate unanimously, eliminating political considerations in the appointment of all postal employees.

Establishing a system for nonpolitical appointments of individuals to positions in the Postal Service is just the first step in creating the agency structure necessary to insure postal modernization. Federal statutes relating to contracts, employment policies, apportionment of appropriations, the development and submission of budgetary requests to the Congress for its consideration, and the acquisition and disposition of real and personal property impose restrictions which in our view are not desirable if we intend to operate the Post Office as an independent public service agency of the Government. Laws which are appropriate to governmental management generally, which insure compliance with policies which Congress has determined to be in the best public interest for Government agencies generally, are not the best method of control in the case of the post office. They have proven to be a hindrance to postal modernization.

Annual budgets and annual appropriations for all aspects of postal operations prevent the Postmaster General from establishing long-range modernization programs and a blueprint for postal progress which he and his subordinates can be assured will continue in effect beyond the fiscal year. Until just a few years ago, there was no such thing as a 5-year plan in the post office, such as characterizes the planning of every major industry in the United States. The irony of this is that the post office is the largest business enterprise in the country. It has more than 30,000 post offices, about 10,000 additional contract stations, some 30,000 rural routes and more than three-quarters of a million employees; it handles more than 80 billion pieces of mail a year, and will next year spend close to $8 billion. Yet planning for the future is extremely difficult and in all cases subject to the restrictions, limitation, modification, and personal predilections of the Bureau of the Budget and the four committees of the Congress which render the final judgment on postal operations.

Critics of postal reorganization point out that all other agencies of the Federal Government operate under the restrictions of applicable law and annual budgetary review and appropriations procedures. The committee's judgment is that that point is not really an answer, and that even if it were, the nature of the postal service is such that it will be improved by removing it from that process. Delivering the mail is simply not in the same category of policymaking and program-development as foreign policy, national defense, housing, highway construction, or health and education assistance to State and local governments. It is an essential, business-oriented service. The committee has no intention of establishing any postal system which does not have a direct and continuing responsibility to the people and to Congress, but we do believe that its role can be fulfilled with a greater degree of efficiency if it is removed from the ordinary channels, administrative controls, and legislative restrictions of other agencies in the executive branch.

S. 3842 does that by establishing the U.S. Postal Service as an independent establishment of the executive branch—neither an ordinary Federal agency or Department nor a Government corporation. The executive authority shall be vested in a nine-man Board of Governors nominated by the President and confirmed by the Senate to serve a term of 9 years each, with a new member being appointed every year. The Governors, in turn, will appoint the Postmaster and the Deputy Postmaster General to serve as the chief executive officers of the Postal Service.

The purpose of this system of organization is to establish a buffer between operating management in the Post Office and either the President in the executive branch or the Congress in the legislative branch. The function of the Board of Governors is to insure independence for operating management. All authority shall be vested in the Board, and almost all authority may be designated to the Postmaster General or other subordinate officers. The only matters in which the Governors themselves must in all cases exercise their responsibility is in the approval of postal rate commendations are made inapplicable to the Post Office and in the selection or removal of the Postal Rate Commission, and in the selection or removal of the Postmaster General and the Deputy Postmaster General.

Except as specified in the bill, all laws relating to public works, contracts, employment, appropriations, budgeting, and any other laws governing agency operations are made inapplicable to the Post Office. The laws which are retained and made applicable include Federal standards for wages and hours, employment of retired military officers, security clearance and employment checks on applicants, the prohibition against employees striking against the Government, freedom of information for the public, veterans preference, and laws relating to labor management, which will be discussed in greater detail in a moment.

We believe this organizational structure will work. The key factor in reaching our decision has been the committee's desire that the Post Office be freed from its own past; that the new U.S. Postal Service be given a clean slate, and a real opportunity to correct all of the errors, as well as to benefit by all of the experiences of the past, and to plan anew to establish a postal system that will do the job well.

CONTROL OVER EXPENDITURES AND REVENUES

The second major area of postal reform is that the Postmaster General and his subordinate officers do not have the power to control to any significant degree either the expenditures or the revenues of the postal system. They do not set the rates charged users of the mail except for the relatively small, and legislatively controlled, costs attributable to parcel post operations and a few fees for special delivery stamps and things like that; and they do not set wages or any other monetary benefits for postal employees. This, I ought to add, refers to the existing Postmaster General and his subordinate officers. Wages, including fringe benefits, for fiscal year 1969 cost $5,826 million; while revenues in the same fiscal year amounted to $6,114 million. So it is obvious that the lack of control can present a very serious problem for the Postmaster General.

Except when a postal emergency arises of catastrophic proportions, he cannot embargo mail because the volume is overwhelming. He has only limited authority, and most of that through persuasion, to require large volume mailers to comply with the demands of peaks and valleys and the day-to-day operations of the Post Office. He is subject to the whim of the public—often difficult to anticipate—which may flood the mails with packages at Christmastime, cards on Valentine's day, or letters to Members of Congress complaining about poor postal service. As Postmaster General O'Brien told the House Appropriations Subcommittee several years ago, he has virtually no control over the business which he is appointed to operate.

About 80 percent of postal costs are for the payroll of 750,000 postmasters, supervisors, clerks, letter carriers, mail handlers, rural mail carriers, and other employees, all of whom are paid at rates estabished by law enacted by Congress. If the Congress decides that postal employees are entitled to a 6- or 8-percent-pay increase, then we enact it; and unless the President vetoes it and Congress does not override the veto, the Post-

master General is required to pay an additional 6 or 8 percent out, without having exercised any control over the expense thus incurred.

A 6-percent-pay increase today costs the Post Office about $370 million a year. So it is obvious that the lack of control over payroll costs is a serious deficiency in the managerial ability of any Postmaster General.

But it is more than just a defficiency: it is a positive, ever present weakness in the system of management in the Post Office. For a Postmaster General who knows that he cannot control his costs, that nothing he does has binding effect on his costs, will have a very difficult time developing and maintaining the kind of management attitudes for successful operations. His efforts to achieve effective operational control, however noble and sustained, can be undercut on a moment's notice by the enactment of programs which, however well guided or misguided, may alter his best plans for economical, effective operations.

The other side of the coin is that the Postmaster General does not have any control over his revenues, either. He may propose rate increases to the Congress and make some effort to lobby them through both Houses, but it is never politically popular to increase postal rates; and the Postmaster General knows that if Congress does not enact a rate increase, he has the unlimited authority to draw the money necessary for postal operations directly out of the Treasury. As one Postmaster General remarked not too long ago:

> It doesn't make a damn bit of difference to me whether Congress enacts a rate increase or not. I can get all the money I need out of the Treasury.

Postal rates generally meander their way through Congress in 18 months to 2 years, if at all. A record was set in 1967 when the bill went through both Houses and was signed into law in just 12 months. Postmaster General Blount proposed a postal rate increase in April 1969, and although some hearings have been held in a subcommittee of the House of Representatives, there is no reliable evidence at this time to indicate that a rate bill is alive and well. As a matter of fact, a bill to increase postal rates has not even been introduced in either House.

The postal deficit for fiscal year 1969 was approximately $1.4 billion, divided about evenly between public service costs, which are written off for ratemaking purposes, and actual operating deficit, which is taken into account in recommending rate increases. Despite this growing disparity between revenue and costs, the Postmaster General is without authority to reduce the deficit. Since July 1, 1968, salaries for postal employees have increased by an average of 15.7 percent, costing about $950 million. Postal rate increases enacted in Public Law 90–206, which have become effective since July 1, 1968, have produced additional postal revenue at the rate of $65.2 million a year. Thus the difference between revenues and expenditures has increased by $885 million a year. The additional 8 percent salary increase recommended by President Nixon and included in the committee recommendation in this bill would add about $500 million to that deficit.

There is something basically demoralizing about that kind of powerlessness in a Cabinet officer charged with directing the course of action of the largest civilian agency in the Government. Four congressional committees have substantial control over the development and financing of any program the Postmaster General may wish to establish, or eliminate. Postal workers know that the Postmaster General, is really not the man with control over their pay and meaningful employment benefits. Because while he may sign a collective bargaining agreement under the labor relations Executive order issued by the President with recognized employee organizations, every single aspect of postal employment for individuals involving the payment of money, either directly or indirectly, is established by Congress—pay, health insurance, retirement, life insurance, leave, overtime, severance pay, injury compensation, holiday pay, night differential—everything.

About the only thing left to bargain for, about the only bargaining tool the Postmaster General has, is setting vacation schedules and determining seniority job assignments. Those issues are important, but they are not bread and butter issues. This, then, becomes a frustration for a man whose responsibility it is to run the Department effectively.

S. 3842 vests in the new U.S. Postal Service the complete authority to control costs and revenues. The role of Congress in setting pay and establishing postal rates is eliminated. We play no role at all. Only through our inherent constitutional power vested in the Senate and the House of Representatives in the first sentence of the Constitution do we retain direct control over the Postal Service.

We establish by law the basic policies for postal operations, and the guidelines, specific and general, which the Postal Service shall follow in determining its course of action. But beyond that we do not go. Postal pay shall be established for rank-and-file workers in accordance with collective bargaining procedures designed to achieve comparable pay and fringe benefits with the private sector of the economy. For supervisors, postmasters, and other managerial employees, pay will be set after appropriate consultation with these employees, and in line with private enterprise. Postal rates shall be established by the Postal Service without any supervision or final judgment rendered by the Congress.

In our judgment, this separation from congressional control is necessary to give the Postal Service the freedom to make significant improvements in the postal service. If, as Postmaster General O'Brien said, and as Postmaster General Blount has reiterated, the Post Office is hamstrung by a multitude of laws, traditions, rules, and congressional restrictions upon its authority to act, then it will no longer be hamstrung; because our bill does truly remove almost all restrictions. Except for a small handful of policies, which the committee believes are so integral a part of postal policy that they must be followed in order to give the American public the best kind of postal service, the Postal Service will have a clean slate for future operations.

POSTAL MODERNIZATION AND FINANCING

The third area of postal problems which the committee considered is the need to modernize the Post Office and the need to acquire the funds necessary to modernize without relying upon the vagaries of the Bureau of the Budget, the appropriations process, and the chance changes in fiscal policy which hold up modernization from time to time.

Unfortunately, postal modernization receives more applause that money. Everyone is for postal modernization and an improved postal system, but when it comes down to authorizing and appropriating the money necessary to build a modern postal system the votes are hard to find. The facts of life are that it would take about $4 or $5 billion right now to build the needed postal facilities, to install the kind of modern sorting equipment, and to acquire other necessary machines and techniques to insure keeping up with the ever increasing volume of mail and to achieve postal excellence.

Every Member of Congress knows that it is simply unrealistic to hope for an appropriation of that size over any reasonable period of time. The Post Office Department has never got the approval of the Bureau of the Budget for that much in a 4- or 5-year period; and the Congress, in establishing priorities for Federal expenditures, simply would not appropriate it. I have had the honor and pleasure of serving on the Appropriations Committee for nearly 12 years, and I have seen very little evidence that a $5-billion modernization appropriation for postal construction either is on the horizon or would have a prayer of a chance.

Nevertheless, the program is vital. Most of the mail in this country is handled by about 75 large post offices. New York City, Chicago, and Los Angeles handle a staggering proportion of all mail in the entire postal system, and the statistics show that about 75 percent of all the 80-odd billion letters, papers, and parcels this year will originate in or be delivered in the 300 largest post offices.

Most of these post offices are not mechanized properly, even though some of them are not very old. Delays in planning and construction, freezes upon the expenditure of public construction money, changes of political administrations, and other good and sufficient causes for delay postpone the building of new post offices or modernization of older post offices for years at a time. This simply must not continue.

Most of our post offices were built during the New Deal by the Public Works Administration as employment projects to get people back to work. But since the beginning of the buildup for the Second World War, the amount of money spent for postal construction and modernization has been totally inadequate. From 1937 through 1945 no financial obligations of any significance were incurred. From 1945 through 1958 the Post Office Department requested $367.6 mil-

lion for modernization and actually spent about $295.3 million—an average of about $20 million a year.

I ask unanimous consent to have printed at this point in the RECORD a table showing postal modernization requests, approvals, and expenditures from fiscal year 1969 until the present time.

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

The total amount of money requested by the Post Office Department or the appropriate agency for buildings and postal modernization for each year since 1958, with the total amount approved by the Bureau of the Budget, the total amount appropriated by Congress, and the total amount actually spent

Fiscal year	Request	Bureau of Budget approved	Congress approved	Estimated obligations
1959	$85,123,000	$73,628,000	$73,292,000	$72,618,000
1960	158,515,000	158,515,000	140,630,000	147,436,000
1961	142,290,000	142,290,000	130,087,000	122,978,000
1962	140,262,000	133,950,000	109,264,000	108,731,000
1963	169,829,000	134,732,000	100,927,000	98,493,000
1964	147,858,000	122,910,000	119,218,000	[1] 133,761,000
1965	148,850,000	98,542,000	86,351,000	81,564,000
1966	$174,232,000	$136,932,000	$112,822,000	$112,587,000
1967	191,040,000	166,636,000	147,861,000	146,508,000
1968	238,428,000	218,062,000	207,401,000	206,219,000
1969	320,806,000	238,407,000	213,407,000	212,377,000
1970	311,563,000	226,766,000	221,005,000	
1971	253,184,000	241,205,000		

[1] Includes fund transfers from surplus funds in other appropriations under existing transfer authority (77 Stat. 62) to cover increases due to accelerated modernization program.

Mr. McGEE. Mr. President, these figures demonstrate beyond doubt that postal modernization is a long way from home so long as the present system for budgetary review and annual appropriations is continued. Let me cite one example, fiscal year 1969, which began shortly after Congress approved a $900 million increase in postal rates in order to finance modernization and improvements under Public Law 90–206:

Postmaster General O'Brien requested that the Bureau of the Budget approve $320.8 million for modernization.

The Bureau of the Budget approved and permitted the Postmaster General to ask the Congress for $238.4 million, a reduction of about 25 percent before the request even saw the light of day.

The Congress approved $213.4 million, a further reduction of about 10 percent of the amount approved by the Budget.

The total reduction achieved through the budgetary and appropriation process equaled 33 percent of the amount which the Postmaster General requested as being necessary to establish the beginnings of a good modernization program for just 1 fiscal year.

To resolve this continuing problem, S. 3842 would authorize the Postal Service to borrow money outside of the normal budgetary process by issuing bonds, which may be purchased by the Secretary of the Treasury or may be sold on the open market to public investors. They may or may not be guaranteed as Government obligations. The total amount outstanding at any one time may not exceed $10 billion; and the Postmaster General may require the Secretary of the Treasury to purchase up to $2 billion outstanding at any one time.

The Secretary of the Treasury will consult with the Postal Service as to the issuance and interest rates, but in the final analysis he will not have the absolute control over the issuance of the bonds because, if he did, the Postal Service would obviously not truly be free to insure compliance with the modernization program.

The committee has given very careful consideration to the provisions of bonding. Some of us felt that going on the public market was unwise and would result in interest rates that were higher than Government bonds generally have to pay. Because the bonds may not be guaranteed in all cases, investors would necessarily want a higher rate in return on their investment. But in my judgment, that should be considered to be a specious argument. Nobody in his right mind would seriously contend that the Congress of the United States would permit the postal service to default on its revenue bond obligations. Nobody is going to put a padlock on the Post Office in Cheyenne, Wyo., in Honolulu, or anywhere else.

It is vitally important for the officers of the new postal service to keep in mind that even though their bonds may represent nothing other than the postal service itself, they will not be operating in a vacuum or on Mars, and they should drive a very hard bargain with any investor who might hope for a 10 to 12 per cent return on his money simply because the Federal debt ceiling precludes the Secretary of the Treasury from guaranteeing the bonds. Whatever the Secretary thinks about them, we here in Congress know that the postal service is always going to have the full faith and credit of the Government.

The committee is confident that those who assume the management of the post office will recognize the difficulties the Post Office will encounter in attempting to borrow money if its financial structure is not sound and its spending practices are not proven. The committee has approved the administration's recommendation but here cautions the Board of Governors that borrowed money should not be used to meet current operating expenses. This is an important caution. The use of bond revenue should be restricted to postal modernization. The basic purpose in authorizing the sale of bonds by the postal service is to avoid the annual battle between the Post Office Department and the Bureau of the Budget.

This year, the Tennessee Valley Authority, which has a 37-year history of successful operations in the generation of electric power, sold $100 million in bonds due in 1995 for capital improvements in the TVA system on the bond market at a cost to TVA of 8.99 percent. U.S. Government bonds of comparable maturity sold at the same time at 6.56 percent. Thus the electric power customers of the TVA will pay a premium of 2.43 percent because the TVA bonds are not Government-backed bonds. TVA bonds have a current rating of AAA on the bond market. The TVA enabling act requires the TVA to increase its rates to maintain a satisfactory reserve for the payment of all expenses including bonds; nonetheless, 8.99 percent is the current cost to TVA of borrowing money. In the case of TVA, the cost is absorbed directly by the distributors which purchase electricity from the Authority. The general public pays the cost of interest indirectly and only to the extent that it is passed on from the distributors.

The general public of the United States will pay the full difference between the cost of Government bonds and the cost of postal revenue bonds through postal rates. Because the post office has an absolute monopoly on the transmission of correspondence, there will be no alternative for the average American citizen who uses the mail, and who, with only rare exception, uses only letter mail.

Thus in approving the administration request on bonding authority, the committee expresses its very firm hope, indeed expectation, as well as its caveat, to the postal service and the Board of Governors that they will give the highest consideration to the public interest in the entire matter of selling bonds and using bond revenue.

CONTINUITY OF MANAGEMENT

The fourth general problem area which the committee faced in developing a reorganization bill was that of establishing a system which will provide a greater degree of continuity of management in the postal service. Although the rank-and-file employee up through the level of postmaster are career employees in the civil service, above that level individuals charged with substantial responsibility have traditionally been adherents of the political party in power. Good jobs in regional offices and in the headquarters in Washington have, one way or another, been passed out to the party faithful. There may not be anything wrong with such a system—all Government agencies have some degree of political influence in selecting applicants for policy and supporting positions—but there is no doubt that the situation in the post office is much more political than it is in most other Government agencies.

A number of years ago, the Congress created the position of Deputy Postmaster General, in an effort to provide a career position at the highest level of postal management, so that the Postmaster General could continue to be a political appointee, but his immediate deputy, responsible for running the postal service, would be a career man. That effort failed completely. Although we have had a number of very fine

Deputy Postmasters General, all of them were appointed mostly on the basis of the political relationships, not their expertise in postal affairs. The other high-level officials in the Department, the Assistant Postmasters General, the General Counsel, and their deputies, assistants and aides, are in almost all cases the party faithful.

The great weakness in the system is not that Jacksonian democracy prevails in the Post Office, but that the tenure of these individuals is too brief and too uncertain; by the time they learn something about the Post Office, they are ready to resign and return to private employment, their law practice, or somewhere else, or they are required to move on because of the fate of their political party in the most recent election. A new group comes in or a new Assistant Postmaster General is appointed and the bureaucracy begins anew to educate him to the problems of the postal service. In Hamlet's words—

Enterprises of great pith and moment with this regard their currents turn awry, and lose the name of action.

The committee recommends that the nature of the postal service as a bureaucracy be designed not only to eliminate political recommendations, but to create an organization encouraging tenure and promotion from within or selection from without based on qualifications for the job at hand. We do this by isolating the postal service from Presidential or congressional control over its program activities, and by protecting the Chief Executive officials from political influence through the Board of Governors. Salaries for officers and employees of the Postal Service can be higher than policy and supporting positions in other Federal agencies, although no salary may exceed that of a Secretary of a Department. This should offer sufficient economic benefit to attract and retain executive officers with the highest qualities without belaboring the ancient argument of a citizen's obligations to give up money in order to serve his country. Time has proven that in most appointed positions in the executive branch, that argument wears thin after a year or two of financial sacrifice.

OTHER MAJOR PROVISIONS OF S. 3842

Those four points are the major grounds for our recommendation. To resolve those problems is the whole purpose of the bill. The manner in which we resolve them, the intricate details of a very complicated new Federal agency should at least be highlighted in order to clear up some of the more significant misunderstandings or outright misrepresentations which have been said of the administration's proposal or the committee's recommendation.

POSTAL RATEMAKING

Of greatest consequence to the Post Office and all mail users is the system for setting postal rates. The system is very simple today: Congress sets almost all rates by law and appropriates annually whatever extra money is needed to run the Post Office. Except for first-class mail, no class of mail comes anywhere close, right now, to paying its fair share of the costs. The postal subsidy is nearly one and a half billion dollars, half of which we write off as a public service attributable to preferred classes of mail, and rural postal services which are not self-sustaining; and the other half is simply an operating deficit, mainly caused by continually increased salaries and other expenses.

The administration recommended that this system be changed in three ways. First, that the Board of Directors of their postal corporation set postal rates as they see fit, requiring only that each class of mail pay a rate which the accountants described as "at least demonstrably related costs."

Second, that preferred rates continue to be set by Congress and that Congress annually appropriate to the post office the difference between the preferred rate and the regular rate.

Third, that for a so-called transitional period, ending by 1978, Congress appropriate additional funds, meaning subsidies, to soften the blow of having the break even.

The committee recommendation is based in part on the administration's proposal. In some instances, we go much farther toward liberating the Post Office from its historic apron strings to the Congress; and in other instances, we maintain some degree of congressional oversight.

First of all, we establish in the U.S. Postal Service, as an independent entity, the Postal Rate Commission, composed of five Presidentially appointed professional rate experts, confirmed by the Senate, who have the power to recommend all rates and all classifications for all mail. Their judgment shall be final, except in a case where the Board of Governors unanimously determines that a modification of the Commission's recommendation is necessary to comply with the specific criteria of the statutes and in order to raise sufficient revenue to operate the Postal Service.

Second, in our proposal, the subsidy for preferred classes of mail is phased out. Under existing law, second- and third-class mail sent by any religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal nonprofit organization, plus a few other special types of mailers, are entitled to mail at rates substantially less than the regular rate—and the regular rate itself is very low, particularly for second-class mail.

The committee believes that if Congress is to separate itself from the periodic battles over rate adjustments, we should make the separation complete. We should get the Congress out of the clutches of the lobbyist. To retain any ratemaking power is to insure that our halls will be filled with the representatives of special interest groups who will, as they always have, attempt to convince the Members of Congress that the world will truly come to an end if we raise the rate on their mail.

Obviously, whenever the Postal Rate Commission in the future undertook to raise rates as recommended in the administration's proposal, all mailers of all kinds, except ordinary citizens who pay their bills and write letters to their friends and relatives, would come to the Congress to lobby for a special exception for their kind of mail simply to avoid the rate increase proposed by the Commission.

My colleagues in this Chamber know quite well the meaning of rate increases.

A one-tenth of a cent increase in the rate applicable to presorted and zip-coded third-class mail means about $15 million a year in revenue to the Post Office; $15 million can finance a very large crying towel. So I repeat: The separation of the Congress from ratemaking must be complete, or it will be meaningless.

At the same time, we are not unmindful of the very preferential treatment which churches and schools and libraries and labor unions and other mailers have received at the hands of congressionally established rates, and we would be grossly unfair to those mailers, and genuinely adverse to the public interest to "throw them to the wolves" in the first day of the Postal Service's operations. In many instances, it would literally mean bankruptcy, and unfortunately, those classes of mail which would be most adversely affected are those very classes of mail which Congress has protected as a true public service.

It costs a nickel to mail a book from a county library to a farmer, and a nickel for him to mail it back when he has read it. The cost for mailing that book obviously is very much more than a nickel: but to encourage reading, education, and social development in this country, we have for decades paid out of the Federal Treasury a portion of the cost. So although we recommend that Congress, by law, get out of the ratemaking business, we at the same time will provide a graduated period of time of up to 10 years for preferred mailers to adjust to the impact of the new rate increase.

If the Postal Rate Commission, for instance, determines that the value of a book, or a church newsletter, or a labor union newspaper is socially important enough to receive the benefit of a rate less than commercial rates, and if that rate is 8 cents for a book mailed to the farmer instead of 5 cents, then a 10-year grace period will automatically take effect and the county library will be able to amortize that 3-cent rate increase over a 10-year period—that is, three-fifths of a cent additional postage each year.

By the end of that period, perhaps the rate will be 10 cents or even 12 cents or if postal efficiency is as improved as some advocates claim, perhaps the rate will just be 2 cents; but in any case the grace period is set by law, and the economic impact will be very substantially diminished.

The grace period will apply to any mailer whose rate is increased to a rate higher than the existing law on the date of enactment of this law, except first-class mail and parcel post. The grace period for any ordinary mailer or any commercial mailer, in the business world, for example, is 5 years. The grace period for the preferred mailers is 10 years.

Some of my colleagues have undoubt-

edly been contacted by representatives of libraries, churches, or charity organizations emphasizing the desperate need to maintain their preferred status. I have had a few calls myself, believe me. Let me say this in response. If we amend this bill for one preferential rate for any group, we might as well cave in entirely and call for an independent rate commission. The Committee decided, and we earnestly recommend that all statutory preferences be abolished, that Congress get out of the ratemaking business. To do otherwise is to pass a postal reform bill that is truly no reform at all in the ratemaking field, but remains hollow, indeed.

The third aspect of our ratemaking recommendation is the subsidy. This is one of its saving graces. There has been a considerable amount of misunderstanding and misrepresentation on this point, particularly between the waring factions of second- and third-class mail users. The subsidy we recommend is not designed to benefit any particular group of mailers. It is designed to retain a very important public aspect of postal operations and to retain some reasonable degree of congressional supervision through an annual review of postal operations and an annual appropriation of money to insure that public services, particularly outside of the major metropolitan areas, will be maintained. I see nothing whatever wrong with Congress continuing a partnership of that limited nature with the Post Office, even though the Post Office is a national monopoly. The National Aeronautics and Space Administration has managed to go to the moon several times and NASA comes to Congress twice a year, once for an authorization for operations, and the second time for an appropriation of money. It is not the Congress which prevents the Post Office from doing an exceptionally fine job; it is the will in the executive and legislature to determine that it shall be done. Shakespeare is again appropriate—

> The fault is not in the stars,
> But in ourselves. . . .

To insure that postal service in rural areas will not be diminished, to maintain the post offices in the little towns, which sometimes are the lifeblood of a community and have great social significance, we authorize the appropriation of 10 percent of the annual operating costs, limited to 10 percent of the amount appropriated for fiscal year 1971. Similarly, 10 percent of modernization costs financed through bonds will be paid for directly by appropriations.

This subsidy is aimed at no class of mail and no group of mailers. It is a general contribution by the Congress to insure continued postal service where "businesslike" judgments, in order to save money, might otherwise dictate the closing of a small post office or the elimination of a rural route. The public service should be paramount in this respect. Where costs, economies, and efficiency meet head-on with adequate public service, it shall be the duty of the postal service to prefer public service.

The tendency of the Post Office Department is to ignore this mandate. When I was appointed to be a member of the Senate Committee on Post Office and Civil Service, in 1963, there was almost exactly 10,000 fourth-class post offices in the United States. Today there are about 6,000. Some have graduated to be third-class post offices, but most have been abolished, and little towns in Wyoming, Texas, New York, and elsewhere have dried up. The elimination of a post office can destroy community identity, and the demise of a village or a hamlet follows quickly.

TRANSPORTATION

Another major consideration are the provisions of our bill relating to transportation. These considerations are of extreme significance. Under existing law, railroads are required to carry the mail—they have been since 1916. They may carry the mail at Interstate Commerce Commission rates or they may negotiate contracts with the Postmaster General at rates lower than ICC rates. About 75 percent of the mail carried by railroads today is at negotiated rates. But other than that, there are no negotiated contracts for transportation of mail. Our 12,000 star route contracts are all put out at competitive bid, and air mail transportation is controlled by the Civil Aeronautics Board.

The administration reocommended that the Postmaster General be authorized to negotiate contracts with any carrier, surface or air, at whatever rates the market would permit. The House of Representatives very clearly rejected that recommendation by striking out all provisions permitting negotiated contracts for air transportation. Your committee recommends a limited degree of contracting authority.

For surface transportation, negotiated contracts may be made, but any common carrier or any other person—and by that we mean star route carriers—must have notice that the Postmaster General intends to negotiate such a contract and they must have a fair opportunity to offer to negotiate.

The star route cases, made infamous in the Grant administration, must not be allowed to reoccur. The Post Office in its contracting must be particularly careful to avoid the implication of "secret deals" or rewards to favored carriers. The very best way to do that is to make all contracts competitive, but that imposes a restriction upon mail transportation which we believe is too severe. The committee recommends a compromise that we believe is in the best public interest.

Similarly, in the negotiation of contracts for air transportation, the committee recommends that the historic role of the Civil Aeronautics Board be continued, that all negotiated contracts be submitted to the Board and that the Board be given an opportunity to disapprove the contract if it determines that it should be disapproved, within 90 days. The contracts must provide that not more than 10 percent of the mail, by weight, be letter mail—or what is now first-class mail—and that at least a thousand pounds be shipped on each flight.

The purpose of these two limitations is twofold: First of all, it would not be fair to nickel and dime the airlines to death with small, lightweight shipments which impose a high cost on the airlines to handle and a low profit on the already low rate paid under contract. Second, the percentage limitation is designed to require the Post Office to use air transportation to a greater advantage than it has in the past. Our committee report spells out our viewpoint on this subject. Contracting authority must not be used merely to reduce costs. Transportation is simply not that much of a cost. We recognize and appreciate that rates for air mail and airlift of first-class mail are pretty high. Thirty-six cents a ton-mile for airmail is a substantial rate, and the Civil Aeronautics Board, in our judgment, should see to it that that rate comes down. But we do not believe that the Postal Service should be authorized to cut the rate in half, or to go shopping for cheap transportation, at the expense of the airline industry which does a very good job of transporting mail and for which the sudden curtailment of that revenue would truly be an economic disaster.

To protect the legitimate interest of airlines generally and to insure that the Post Office makes a little more effort to improve service than it has in the last year or so, the committee recommends these limitations on contracting authority.

LABOR-MANAGEMENT RELATIONS

The final point in our bill that has received a great deal of notoriety are the provisions relating to the negotiation of labor-management agreements between the Postal Service and the employee unions. The National Right To Work Committee, and other antiunion groups, have laid out very distorted and grossly inaccurate descriptions of the administration's proposal.

President Nixon and Postmaster General Blount, who was the President of the U.S. Chamber of Commerce the year before he became Postmaster General, recommended to Congress that the Postal Service be authorized to negotiate with postal unions on all issues, including the issue of whether union membership should be a prerequisite to permanent employment in the post office, just as it is in most States in the private sector of the economy. In order to insure that postal employees be treated no different than employees in the private sector, but remain as closely alike as the employees of the private sector. The President and the Postmaster General proposed that section 14(b) of the Labor-Management Relations Act, those provisions of title 29 commonly known as the "right-to-work" section of the Taft-Hartley Act, be made applicable to the Postal Service. In Wyoming, Texas, or any other of the 19 States which have a law permitting an individual the freedom not to join a labor union in order to be permanently employed, the State law would be paramount to the Federal law.

Opponents of the President's recommendation branded this as "compulsory unionism." The publicity campaign carried on against the President's position has been effective. A great deal of mail has come in, some of it, even from postal

employees. The committee, nonetheless, recommends that the agreement signed by the Postmaster General and postal unions be honored. We believe in freedom, including the freedom of the postal workers to negotiate effectively with management. The overwhelming majority of all postal employees are members of a union or an association.

The "right to work" is a spurious issue and irrelevant to the Post Office. The union which wins a majority of votes in an election to see who represents the letter carriers, or the mail handlers, is going to represent those workers. Nearly 100 percent of postal workers are members of a union. It is unfair to the union and it is unfair to the members of a union to have some employees receiving the benefits of collective bargaining for wages, hours, and working conditions without contributing towards the costs of the organization which represents them. If they have a religious conviction against membership in a union, we have provided an exception, and they may pay their dues directly into the treasury. But if they just want a free ride, we do not believe their argument is justified.

The representation that this is compulsory unionism is not true. Not only is there no mandatory unionism contained in this bill, but it goes out of its way to make sure that we do not make it simply a postal reorganization bill and rewrite the law in this regard. We simply abide by the laws of the land now.

Thus, where we have right to work laws in the States, those will be left intact. Where we do not have right to work laws, the resulting agreement simply allows that if any of the unions want to go through the regular process of a vote leading toward a union shop, they have the right to do so.

This seems to be a legitimate balance of the willingness of the postal unions in the negotiations to readily give up the right to strike.

If we are going to move these people more and more over into the parallel of the private sector not only with wages, but also with other conditions of work, it seems only equitable and reasonable that for the relinquishment of the right to strike because of the national implications of the postal service, it is only fair that they have the comparable concession of the right to vote for a union shop in those areas where it is legal and permissible.

Mr. President, I repeat once more that the right to work is a "phonyation" in this particular bill. There is no attempt to strike the right to work principle and there is no attempt to try to force unionism on any area that does not want it. It is simply designed to accord with a labor-management negotiation, which seemed to the committee to be in fair balance, the quid pro quo between giving up the right to strike on the one hand to the right to ask for an election under regular procedures in the labor law.

We worked on this particular bill for a year and we believe we have a very tightly built-in reorganization plan that we are submitting. We think its broad considerations are constructive and that we will have established a very effective postal system in the land.

Because of our committee conviction in this regard we ask that our colleagues in this body weigh it carefully and we would hope it would give us the license to go to conference with the House—the House has passed a different bill from the Senate bill—and resolve our differences at that level.

We make that request because the House spent over 1 year digging deeply on its postal bill; and the Senate spent about a year digging into the considerations at stake in this bill. Because of the homework that has been done in both the Senate and the House we think it would be useful and productive to resolve the differences meaningfully in conference rather than to try to rebuild the Post Office of the United States on the floor of the Senate of the United States. We think the latter would be a jerry-built hatchwork that would emerge. We hope this body will enable us to go to conference to complete the final act of postal reorganization that will serve the country well.

Mr. President, we believe we have a good recommendation. We have not satisfied everyone and I am confident a bill of this magnitude, a complete reorganization of the largest civilian agency of the Government of the United States, would be very difficult to draft to achieve 100-percent support. I am convinced that we have improved immeasurably upon the original recommendation of the Kappel Commission and the administration's bill as introduced in the House last year. We also have a bill referred from the House. We have a conference ahead of us. We have postal employees who are anxious to see their Congress act on their badly needed pay adjustment. I hope the Senate will act with dispatch to consider this bill fairly and to enact postal reform.

Mr. FONG. Mr. President, I wish to commend the distinguished and able senior Senator from Wyoming for his very excellent remarks in support of S. 3842. I wish to associate myself with the statement he has just made.

The able Senator is to be complimented for the patient, tireless, and capable leadership he has given to the committee in bringing forth this very fine piece of progressive legislation.

It was my privilege, as ranking minority member, to work very closely with him in writing this legislation. I want to say it was a pleasure for me to work with him as my chairman.

Mr. President, this is a very comprehensive postal reform bill. S. 3842 is one of the most far-reaching pieces of legislation the Senate has ever considered on Government reorganization. If enacted it will be landmark legislation; it is very progressive legislation, and it will affect the lives of all Americans—every man, woman, and child. It will do away with political consideration in appointments and promotions in the postal system and drastically change the organization of our postal system, a system that had its beginnings in American history dating back to 1639.

Although our present system has served our people quite well for over 200 years, the time has now come because of the tremendous increase in mail volume and obsolete facilities to modernize the system to meet the needs of today and the future.

At this point I would like to recite the interesting story of our postal system.

HISTORY OF THE POST OFFICE DEPARTMENT

The first official notice of a postal service in colonial America appears in a 1639 ordinance of the General Court of Massachusetts, designating Richard Fairbanks' tavern in Boston as the official repository for mail brought from or sent overseas.

In 1691, when the population of the American Colonies had grown to 200,000, Thomas Neale, a favorite of the Court, persuaded King William to grant him a patent to set up and maintain a postal system in the colonies for a term of 21 years.

Neal commissioned Andrew Hamilton of Edinburgh, Scotland, as his Deputy Postmaster to organize the postal system. Even though most of the Colonies with Hamilton, Neale died, heavily in debt, in 1699, after assigning his interests in America to Andrew Hamilton and another Englishman named West. In 1707, the British Government bought the rights of West and Mrs. Hamilton, and appointed Andrew's son, John Hamilton, as Deputy Postmaster General for America. He served until 1730 when Alexander Spotswood, a former Governor of Virginia, became Postmaster General. Probably Spotswood's most notable achievement was the appointment in 1737 of Benjamin Franklin as Deputy Postmaster at Philadelphia.

Head Lynch succeeded Spotswood in 1739, and in 1743 Elliot Benger followed Lynch. When Benger died in 1753, Benjamin Franklin and William Hunter, Deputy Postmaster at Williamsburg, Va., were apointed by England as Joint Postmasters General for the Colonies. Hunter died in 1761 and John Foxcroft of New York succeeded him, serving until the outbreak of the Revolution.

Benjamin Franklin effected many important, lasting improvements in the colonial posts. Immediately after his appointment, he went on a long tour inspecting all of the post offices in the North and went as far south as Virginia. He made new surveys, laid out new and shorter routes, and increased the speed of travel on old lines. He placed milestones on principal roads, carried the mail by night between Philadelphia and New York and provided more frequent and speedier service between those two points and between Philadelphia and Boston. In 1755, he established a packet line direct from England to New York and later operated one from Falmouth, England to Charleston, thus giving the Southern colonies direct communication with England. Before he left office, post roads operated from Maine to Florida and from New York to Canada, and mail between the Colonies and Mother England operated on a regular schedule.

Franklin served as joint Postmaster General for the North British Colonies in America until 1774 when he was dismissed for sympathizing with the cause of the colonists. Then, on July 26, 1775,

the Continental Congress appointed him head of the American postal system at a salary of $1,000 a year. He served until November 7, 1776. Historians generally accord him major credit for establishing the basis of a sound, efficient, and reliable postal service in the United States.

PURPOSE OF THE POST OFFICE DEPARTMENT

The Journals of the Continental Congress, May 27, 1773, show that the original purpose of the Postal System was to provide "the best means of establishing posts for conveying letters and intelligence through this continent."

CREATION AND AUTHORITY

Article IX of the Articles of Confederation—1778—gave Congress "the sole and exclusive right and power of . . . establishing and regulating post offices from one State to another . . . and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office." These provisions were adopted by the Ordinance of October 18, 1782, regulating the postal service.

Following the final adoption of the Constitution in March 1789, an act of September 22, 1789 (1 Stat. 75) temporarily established a post office and created the Office of the Postmaster General under the Treasury. On September 26, 1789, George Washington appointed Samuel Osgood of Massachusetts as the first Postmaster General under the Constitution. The postal service was temporarily continued by the act of August 4, 1790 (1 Stat. 178) and the act of March 3, 1791 (1 Stat. 218). An act of February 20, 1792 made detailed provisions for the operation of the Post Office Department.

Subsequent legislation enlarged the duties of the Department, strengthened and unified its organization, and provided rules and regulations for its development.

In 1829, upon invitation of President Andrew Jackson, William T. Barry became the first Postmaster General to sit as a Member of the President's Cabinet. On June 8, 1872 (17 Stat. 283; 39 U.S.C. 301, 302) the Post Office Department became an executive department.

Mr. President, I ask unanimous consent to have printed in the RECORD some important data in our postal service history, a list of the Postmasters General, a brief summary of the present financial and mail volume picture of the service, together with other data and a summary of the June 1968 report of the President's Commission on Postal Organization.

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

IMPORTANT DATES IN POSTAL SERVICE

1639: Fairbanks' tavern became repository for overseas mail.
1775: Benjamin Franklin, 1st Postmaster General under Continental Congress.
1789: Samuel Osgood, 1st Postmaster General under Constitution.
1825: Dead letter office.
1829: Postmaster General became Cabinet post.
1847: Postage stamps.
1855: Registered mail.
1855: Compulsory prepayment postage.
1858: Street letter boxes.
1860: Pony Express.

1862: Experimental railway mail service.
1863: City delivery service.
1863: Uniform letter rate regardless of distance.
1864: Railway mail service.
1864: Postal money orders.
1869: Foreign money orders.
1873: Postal cards.
1874: Universial Postal Union (originally General Postal Union).
1879: Classification system for domestic mail.
1885: Special delivery.
1896: Rural delivery.
1911: Postal savings initiated.
1912: Village delivery.
1913: Parcel post, including insurance and collect-on-delivery service.
1918: Air mail.
1920: Metered postage.
1921: First transcontinental air mail flight.
1925: Special handling service.
1927: Foreign air mail service.
1939: Experimental autogiro service.
1941: Highway postal service.
1943: Zoning system.
1948: Parcel post international air service.
1948: Parcel post domestic air service.
1953: Piggy-back mail service by trailers on railroad flatcars.
1953: Airlift service.
1955: Certified mail service.
1963: ZIP Code program.
1964: First 24-hour self-service post office.
1965: 552 Sectional Centers activated to accommodate changing transportation patterns.
1965: Optical Scanner (ZIP Code Reader).
1966: Postal savings ended.
1967: Mandatory presorting by ZIP Code for second- and third-class commercial mailers.
1967: Postal Source Data System.
1968: Postal Service Institute.
1969: Removed patronage factor in appointments to postmaster and rural carrier positions.
1970: Combination letter-telegram.

LIST OF POSTMASTERS GENERAL AND THEIR DATES OF APPOINTMENT—1775 TO DATE

Benjamin Franklin: July 26, 1775.
Richard Bache: November 7, 1776.
Ebenezer Hazard: January 28, 1782.
Samuel Osgood: September 26, 1789.
Timothy Pickering: August 12 ,1791.
Joseph Habersham: February 25, 1795.
Gideon Granger: November 28, 1801.
Return J. Meigs, Jr.: March 17, 1814.
John McLean: June 26, 1823.
Amos Kendall: May 1, 1835.
John M. Niles: May 19, 1840.
Francis Granger: March 6, 1841.
Charles A. Wickliffe: September 13, 1841.
Cave Johnson: March 6, 1845.
Jacob Collamer: March 8, 1849.
Nathan K. Hall: July 23, 1850.
Samuel D. Hubbard: August 31, 1852.
James Campbell: March 7, 1853.
Aaron V. Brown: March 6, 1857.
Joseph Holt: March 24, 1859.
Horatio King: February 12, 1861.
Montgomery Blair: March 5, 1861.
William Dennison: September 24, 1864.
Alexander W. Randall: July 25, 1866.
John A. J. Creswell: March 5, 1869.
James W. Marshall: July 3, 1874.
Marshall Jewell: August 24, 1874.
James N. Tyner: July 12, 1876.
David McK. Key: March 12, 1877.
Horace Maynard: June 2, 1880.
Thomas L. James: March 5, 1881.
Timothy O. Howe: December 20, 1881.
Walter G. Gresham: April 3, 1883.
Frank Hatton: October 14, 1884.
William F. Vilas: March 6, 1885.
Don M. Dickinson: January 16, 1888.
John Wanamaker: March 5, 1889.
Wilson S. Bissell: March 6, 1893.
William L. Wilson: March 1, 1895.
James A. Gary: March 5, 1897.
Charles Emory Smith: April 21, 1898.
Henry C. Payne: January 9, 1902.
Robert J. Wynne: October 10, 1904.
George B. Cortelyou: March 6, 1905.
George von L. Meyer: January 15, 1907.
Frank H. Hitchcock: March 5, 1909.
Albert S. Burleson: March 5, 1913.
Will H. Hays: March 5, 1921.
Hubert Work: March 4, 1922.
Harry S. New: February 22, 1923.
Walter F. Brown: March 5, 1929.
James A. Farley: March 4, 1933.
Frank C. Walker: September 10, 1940.
Robert E. Hannegan: May 8, 1945.
Jesse M. Donaldson: December 16, 1947.
Arthur E. Summerfield: January 21, 1953.
J. Edward Day: January 21, 1961.
John A. Gronouski: September 10, 1963.
Lawrence F. O'Brien: November 3, 1965.
W. Marvin Watson: April 26, 1968.
Winton M. Blount: January 22, 1969.

Finances (Fiscal Year 1969 unless otherwise noted).

Revenue, $6,114,398,000, up 11.1% from FY 1968.

Costs, or Obligations, $7,228,111,000, up 8.9% from FY 1968.

Deficit (on Obligation basis), $1,113,714,000.

Deficit (after deduction public service costs), $326,966,000.

Payroll, $5,862,403,000.

1970 Appropriations, $7,678,595,000.

1971 Estimated Appropriations, $8,278,259,000.

VOLUME, FISCAL YEAR 1969

Overall: 82 billion pieces.

First Class (personal & business), 46.4 billion pieces.

Domestic Air Mail, 1.7 billion pieces.

Second Class (newspapers & magazines), 9.2 billion pieces.

Controlled Circulation, 579 million pieces.

Third Class (commercial), 19.6 billion pieces.

Fourth Class (parcel post, etc), 1.0 billion pieces.

Penalty Mail (government agencies), 2.3 billion pieces.

Franked Mail (Congressional, et al), 191 million pieces.

Free for the Blind, 18 million pieces.

Total International, 827 million pieces.

Projected:

FY 1970, 84.3 billion pieces.
FY 1971, 86.3 billion pieces.
FY 1981, 120.3 billion pieces.
FY 1991, 166.5 billion pieces.

Per Capita:

1847, 6 letters.
1970, 413 letters.

TEN LARGEST POST OFFICES IN VOLUME AND RECEIPTS FY (1969)

New York: Volume, 5,041,170,710; receipts, $370,256,420.

Chicago: Volume, 4,774,824,316; receipts, $289,310,462.

Washington, D.C.: Volume, 2,673,734,172; receipts, $77,088,233.

Los Angeles: Volume, 2,041,097,416; receipts, $139,174,730.

Philadelphia: volume, 1,861,916,311; receipts, $103,483,662.

Boston: Volume, 1,393,273,172; receipts, $91,421,564.

Detroit: Volume, 1,164,954,790; receipts, $75,655,659.

Columbus, Ohio: Volume, 1,085,087,347; receipts, $33,070,312.

San Francisco: Volume, 1,080,101,800; receipts, $78,646,078.

St. Louis: Volume, 1,018,253,641; receipts, $63,809,460.

Longest Rural Route, 152.35 miles, Ocilla, Georgia.

Shortest Rural Route, 7.8 miles, Long Island, Maine.

Longest Star Route, 2,499 miles, Seattle, Wash. to Anchorage, Alaska.

Westernmost Post Office, Koror, Caroline Islands, or Pago Pago, Samoa, near the International Date Line.

Easternmost Post Office, Majuro, Marshall Islands near the International Date Line or Cruz Bay on St. John in the Virgin Islands.

Northernmost Post Office, Barrow, Alaska.

Southernmost Post Office, Pago Pago, Samoa, near the International Date Line or Naalehu, Hawaii.

Highest Post Office, Climax, Arizona.

Lowest Post Office, Death Valley, California.

Coldest Area in Postal System, Wainwright Alaska, 180 miles north of Arctic Circle.

Hottest Area in Postal System, Death Valley, California.

ZIP CODE

Usage (March, 1970), 84.8% of all categories of domestic mail.

Lowest ZIP Code, 00601—Adjuntas, Puerto Rico.

Highest ZIP Code, 99929—Wrangell, Alaska.

VEHICLES

Total Number Vehicles in Use: 188,072.

Owns and operates, 70,000.

Hires, manned by employees, 36,000.

Contracts for vehicle & driver in city, 30,000.

Contracts for rural routes, government employees providing car, 31,072.

Drive-out agreements, providing carriers transportation to and from routes, 21,000.

Railway Post Offices, (covered), 10,089,000 miles.

U.S. Flag Carriers, (moved), 1,250 million ton-miles.

Money Orders, (issued), 189 million.

Revenue from Money Orders, $60 million.

Dead Mail, 36,363,344 letters and 1,235,000 parcels.

POSTAL PROBLEMS SUMMARY OF THE JUNE 1968 REPORT OF THE PRESIDENT'S COMMISSION ON POSTAL ORGANIZATION

The United States Post Office faces a crisis. Each year it slips further behind the rest of the economy in service, in efficiency and in meeting its responsibilities as an employer. Each year it operates at a huge financial loss. No one realizes the magnitude of this crisis more than the postal managers and employees who daily bear the staggering burden of moving the nation's mail. The remedy lies beyond their control.

Although the Post Office is one of the nation's largest businesses, it is not run as a business but as a Cabinet agency of the United States Government.

The Post Office has always been operated as if it were an ordinary Government agency; its funds are appropriated by Congress, its employees are part of Civil Service, its officials are subject to a host of laws and regulations governing financial administration, labor relations, procurement and purchase of transportation. Major managerial decisions are made through the legislation process: Congress sets postal rates and wages, governs Postmaster appointments and approves or rejects construction of individual post offices.

In what it does, however, the Post Office is a business: its customers purchase its services directly, its employees work in a service-industry environment, it is a major communications network, it is a means by which much of the nation's business is conducted.

Furthermore, it is a big business. In Fiscal Year 1967 the Post Office collected $4.96 billion in revenues and spent over $6.3 billion. (The $1.17 billion deficit was made up by the Federal Treasury.) Its 716,000 employees, working in over 44,000 facilities in virtually every city and town in the land, processed almost 80 billion pieces of mail last year, three-fourths of which was originated by business. Within ten years total volume is expected to exceed 110 billion pieces.

This Commission has concluded that the challenges faced by this major business activity cannot be met through the present inappropriate and outmoded form of postal organization.

The postal system must be given a management system consistent with its mission if it is to meet its responsibilities as a supplier of a vital service, improve the working conditions and job opportunities of its employees and end a huge and completely unnecessary drain on the Federal budget. Piecemeal changes to the present system will not do the job: a basic change in direction is necessary.

Were the postal system being started today, it might well be operated by a privately-owned regulated corporation not unlike the companies which operate other communication and transportation services in this country. We have concluded, however, that a transfer of the postal system to the private sector is not feasible, largely for reasons of financing; the Post Office should therefore continue under Government ownership. The possibility remains of private ownership at some future time, if such a transfer were than considered to be feasible and in the public interest.

There is a way, however, within the compass of Government, to give the Post Office an organizational structure suited to its mission.

We recommend that a Postal Corporation owned entirely by the Federal Government be chartered by Congress to operate the postal service of the United States on a self-supporting basis.

We recommend that the Corporation take immediate steps to improve the quality and kinds of service offered, the means by which service is provided and the physical conditions under which postal employees work.

We recommend that all appointments to, and promotions within, the postal system be made on a nonpolitical basis.

We recommend that present postal employees be transferred with their accrued Civil Service benefits, to a new career service within the Postal Corporation.

We recommend that the Board of Directors after hearings by expert Rate Commissioners, establish postal rates, subject to veto by concurrent resolution of the Congress.

The Nation's Reward: The United States postal system is in serious trouble today because of decades of low priorities assigned its modernization and management needs. Years of lagging productivity have created a gap between postal performance and that of other industries—a gap which represents at the same time a hazard and an opportunity.

We have already witnessed a postal collapse in a major American city. This Commission is convinced that a similar breakdown could occur again in any part of the country. The risk will continue as long as the Post Office is denied the authority and the resources to put its house in order.

On the other hand, a great opportunity exists to improve postal service, cost performance and the circumstances under which postal employees work.

The Commission and its contractors have examined postal operations carefully. It is our considered judgment, based on first-hand observation, that postal costs can be reduced by at least 20% if the normal investment and operating practices used in private industry are made available to postal management.

Several years after the Corporation is under way, therefore, it should be able to eliminate entirely the postal deficit, releasing over a billion dollars a year of tax money to other purposes. The long-run potential for improvement, furthermore, is so high that we are reluctant to estimate its size.

The cost savings we expect would not jeopardize the employment of any present postal employee. In recent years total postal employment has increased sharply with the rise in mail volume. The introduction of cost saving practices in the face of ever greater mail volumes should mean that employment will rise more slowly. Even if employment ultimately declines, the high rate of personnel turnover (23% per year) assures today's employee that steps toward improved financial performance do not threaten his job tenure.

We must point out that adoption of our recommendations will produce no overnight miracles. Heavy investment, financed both by appropriations and by borrowing in the market, will be required. It is unlikely, of course, in an era of rising costs that rate increases can be entirely avoided. What lies ahead, however, after the new Corporation's shakedown period is:

Dependable postal service, at fair prices, fully responsive to the public's needs;

A soundly financed and self-supporting postal system;

Better working conditions and greatly increased career opportunities for one of the nation's largest work forces.

If the Post Office is given a single goal of providing the nation with a superb mail service, and given as well the management capacity and operating freedom to achieve that goal, the energies of workers and managers can be turned to the creation of a postal service appropriate to a vigorous economy, an innovative society and a purposeful nation.

Mr. FONG. Mr. President, President Nixon, in May of last year, sent to the Congress an initial proposal to correct many of the deficiencies in the postal service. Other proposals have also been made.

After many hours of hearings and deliberations, the Senate Post Office and Civil Service Committee has recommended to the Senate its version of Senate bill 3842.

The committee has taken the Postmaster General out of the President's Cabinet and has made the Post Office Department an independent executive agency. Under the committee-approved bill the new Postal Service would be operated by a 15-member Board of Governors—nine would be appointed by the President with the advice and consent of the Senate and would serve for 9-year terms. Two more Board members would be chosen by the nine Presidentially appointed Governors—they would serve as Postmaster General and Deputy Postmaster General. Four additional Governors would come from the Congress as serving without the compensation received by the other Board members. The Members of Congress would serve in an advisory capacity and would not have the right to vote on matters coming before the Board.

The Postmaster General and his Deputy would serve at the pleasure of the Presidentially appointed Board members or as their contracts of employment with the new Postal Service required.

There would also be established by this bill a Postal Service Advisory Council consisting of representatives from postal labor unions, organized mail users, and the general public.

In the area of employee relations the bill transfers all of the present postal employees into the postal career service which shall be a part of the civil service.

Political influence in the appointment and promotion of postal employees is specifically prohibited and the appointments shall be made on the basis of merit, qualifications, and fitness for duty with the principal objective of improving postal services.

The postal employees shall continue to participate in the Federal retirement program as at the present time. However, their wages, fringe benefits, and other working conditions are to be subject to collective bargaining.

The committee bill continues the prohibition against strikes by postal employees. In its place, should an impasse occur in the collective-bargaining process, the bill authorizes binding arbitration.

Mr. President, the committee approved the agreement worked out in early April between the Post Office Department and its AFL–CIO postal unions. I ask unanimous consent to have printed in the RECORD a copy of the memorandum agreement.

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

MEMORANDUM OF AGREEMENT ON THE POSTAL REORGANIZATION AND SALARY ADJUSTMENT ACT OF 1970

Memorandum of Agreement between United States Post Office Department hereinafter referred to as "Department" and the AFL–CIO; National Association of Letter Carriers, AFL–CIO; National Association of Post Office and General Services Maintenance Employees, AFL–CIO; National Association of Post Office Mail Handlers, Watchmen, Messengers and Group Leaders (Affiliated with Laborers' International Union), AFL–CIO; National Association of Special Delivery Messengers, AFL–CIO; National Federation of Post Office Motor Vehicle Employees, AFL–CIO; National Rural Letter Carriers Association; United Federation of Postal Clerks, AFL–CIO; hereinafter referred to as "Unions".

Pursuant to the earlier agreement of April 2, 1970 between the Department and the above-named unions, the parties have jointly developed, through the collective bargaining process, proposed legislation which provides for a major reorganization of the Post Office Department and an 8% pay increase for postal employees. It shall be known as the "Postal Reorganization and Salary Adjustment Act of 1970". The parties have jointly agreed to support this legislative package without qualification and that together they will urge the Congress to enact this legislation without change. The agreed-upon legislative proposal provides, amongst other things, for the following:

ORGANIZATIONAL STRUCTURE

Reorganized United States Postal Service becomes an independent establishment within the Executive Branch of the Government.

Postmaster General appointed by and serves at the pleasure of the Commission on Postal Costs and Revenues, which has 9 public members named by the President and confirmed by the Senate.

LABOR RELATIONS

Enable collective bargaining under a statutory framework establishing methods for conducting elections, providing one or more methods for resolving negotiating impasses, and requiring collective bargaining over all aspects of wages, hours, and working conditions including grievance procedures, and in general, all matters that are subject to collective bargaining in the private sector.

Ban on federal employee strikes continues; binding arbitration if bargaining impasse persists 180 days from start of bargaining.

National Labor Relations Board to supervise representation elections and enforce unfair labor practice provisions.

FINANCE, RATES, AND RATEMAKING

Post Office can borrow up to $10 billion from the Treasury or general public.

Rate changes subject to public hearing before 3-man Postal Rate Board named by President; final rate decision by Commission on Postal Costs and Revenues, but subject to veto by two-thirds vote of either the U.S. House of Representatives or the U.S. Senate.

Post Office to be generally self-supporting by January 1, 1978.

POSTAL PAY INCREASE

8% pay increase for employees of the Post Office Department effective as of the date when this enabling legislation becomes law.

Promptly after enactment, collective bargaining will be required on wages, hours, and working conditions, and to compress to 8 years the time for postal employees to reach the maximum step in whatever labor grade may be established through collective bargaining. When the new schedule becomes effective, an employee will immediately be advanced to the next step in the schedule if at that time he has been in his present step for the period provided in the new schedule.

It is the understanding of the parties that the Administration will recommend to Congress the necessary legislation to effectuate this Agreement.

It is the further understanding of the parties that no disciplinary action will be initiated by the Post Office Department at any level against any postal employee with respect to the events of March 1970, until discussions have taken place between the Department and such employee's union on the policy to be followed by the Department.

Mr. FONG. Mr. President, the committee also approved the administration's long term borrowing authority recommendation. Under the provisions of chapter 21 of the bill the Board of Governors is authorized to borrow money through bond issues sold to the Secretary of the Treasury or on the open market in an amount not to exceed $10 billion outstanding at any one time. However, it would be subject to an annual limitation in debt increase of $1.5 billion for capital improvements and $500,000,000 for operating expenses. The bond revenues could be used for any purpose as the Board of Governors determines is proper in behalf of the Postal Service.

The Congress would pay 10 percent of the debt service on postal revenue bond issues through appropriations. The remainder of the debt will be paid out of postal revenues.

The committee recommends the establishment of an independent Postal Rate Commission composed of five members appointed for 6-year terms. They would be appointed by the President with the advice and consent of the Senate. The Commission's responsibilities would be to make recommendations for postal rate changes and to hear complaints on postal service.

Whenever the Postmaster General found that his costs, less the appropriations from the Congress for 10 percent of the bond debt and the public service cost—10 percent of estimated expenditure or 10 percent of 1971 Post Office Department appropriation less amount for capital improvements, whichever is less—as authorized in section 3703 of the bill, and less the appropriations for revenues foregone in section 2501(b)(3), were more than his revenues he was to ask the Rate Commission for a rate increase. The Commission would hold hearings, consider the testimony and make its recommendations for rate changes. The Board of Governors could then accept, reject, or with a unanimous vote of the Board modify the Rate Commission's recommendations.

The Board would set the effective date for any new rate changes.

Under present law there are generally two groups of mail rates applicable to second-, third-, and fourth-class mail—a regular rate and a preferential rate for nonprofit groups.

Under this bill when a rate increase is ordered, that new rate for what is presently second-, third-, or fourth-class mail shall be phased-in over a period of 5 years in annual equal increments. For any mail entitled to a preferential rate under present law, the new rate shall be phased-in over a 10-year period in annual equal increments.

The rates adopted by the Board of Governors would be subject to complete judicial review should an aggrieved mail user feel the rate was improper. There is also a provision in the bill for interim rates should at any time the Rate Commission fail to come up with a rate increase recommendation within 90 days after an initial request was submitted to the Commission by the Postmaster General or within 30 days after rejection of a recommended rate increase by the Postmaster General.

The field of mail transportation is complicated by existing laws in the general field of rail, motor, and air transportation. Since much of the mail must be moved by commercial transportation, the Post Office Department has had to move mail at rates set by the ICC or CAB according to the type of carrier being used.

The committee bill does make some modifications in the laws applicable to mail transportation by giving the Postmaster General more flexibility than he presently has in contracting for carrier service. However, I do not think it gives sufficient leeway to the Postmaster General in this regard.

I made my objections in the Senate committee but was overruled and I shall not make them here on the floor. However, the committee report on S. 3842 does suggest that the Senate Commerce Committee, which has jurisdiction over our Nation's transportation laws, make a thorough study of the mail transportation problem and possibly approve changes allowing certain carriers now prohibited from carrying the mail to participate in this service.

The measure we are now considering also authorizes an 8-percent salary increase for postal employees effective the date of enactment and reduces the number of years necessary to move from the first step in the postal field service salary schedule to the 12th step. Under present

law it takes 21 years to move to the top step in any one PFS grade. The bill would reduce this to 8 years.

S. 3842 also restates a number of provisions presently in law dealing with the mails. Among them are the prohibition against sending pandering advertisements through the mail; free mail for the blind, the handicapped, and our military men serving in combat areas; franking mail privileges; and other laws.

I believe S. 3842 is a good bill. It does contain substantially most of the provisions desired by those who have advocated reforms.

The Committee on Post Office and Civil Service under the wise and effective leadership of its chairman, the senior Senator from Wyoming (Mr. McGEE), has worked hard and long to come up with effective and practical postal reform bill. The many hours of meetings with administration officials, employee and mail user representatives, and committee hearings and executive sessions has resulted in this meaningful postal reform measure.

To be sure, there will be refinements to what has been proposed in this reform bill. Nevertheless, what we have before us today is a result of the best efforts of the Committee on Post Office and Civil Service working with the information presently at hand.

I am proud to have had a part in writing the committee bill. I think it is an excellent piece of legislation considering the great number of problems which we faced and were attempting to solve. I am confident that the recommendations made by the Committee on Post Office and Civil Service in this measure will substantially do what they are intended to do—improve our postal service.

I strongly urge my colleagues to approve this historical postal reform bill.

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

Mr. FONG. I am happy to yield.

Mr. McGEE. Mr. President, I want to say that we have lots of interesting experiences in this body and as divided as we are in two parties, and sometimes more than that, we find the real measure of an individual's character and judgment.

I want the Senator from Hawaii (Mr. FONG), the ranking minority member on the committee, to know that I do not know how, with two different parties, anyone could have worked more closely and constructively and helpfully to the chairman than he has worked.

His knowledge in this field has been second to none, and the time that he has been willing to take—and that is the key, the digging and homework—has paid very rich dividends, especially for me, because I have received a liberal education at his feet.

Mr. FONG. Mr. President, I thank the distinguished Senator from Wyoming for his very laudatory remarks. It was through his very excellent and farseeing leadership, and his willingness to forgo politics, that we have been able to arrive at this very progressive legislation. Much of the credit for this bill belongs to the chairman of the committee. I commend him and the Nation should commend him for his very fine work on this legislation.

Mr. McGEE. I thank the Senator.

AIRPORT AND AIRWAY REVENUE ACT OF 1970

Mr. LONG. Mr. President, on Wednesday of next week the excise tax on airline passengers' tickets will increase from 5 to 8 percent. This increase in tax was approved by Congress on February 26, 1970, in order to finance an airway construction and airway safety program under the Aviation Facilities Expansion Act of 1969. An important feature of this new higher tax is the "single fare concept." This single fare concept was calculated to facilitate passenger service at airports and to insure that airlines and travel agents fully inform air travelers of the cost of their transportation.

Unfortunately, these consumer-oriented objectives are being misunderstood, and perhaps purposely misconstrued, by some travel agents. They suggest there is something sinister about the new law which they charge hides the tax from the consumer.

In order to fully inform Senators and Members of the House of the situation, I take this opportunity to review the legislative history of the Airport and Airways Revenue Act of 1970.

As I have stated, the tax is to be increased from 5 to 8 percent on the price of the ticket. The House bill, which came to the Senate late in 1969 with provisions increasing this tax, also included provisions to repeal the exemption for State and local governments, education organizations, and certain others. While the bill was in the Senate, the argument was made that the repeal of these exemptions raised a constitutional question as to whether the Federal Government could tax air transportation tickets purchased by State and local governments for their officials traveling on official business.

Like the House, the Senate Finance Committee desired to end these exemptions, agreeing that this would make the levy truly a user charge. However, we were disturbed about the constitutional question. We avoided it in the Finance Committee and in the Senate by shifting the imposition of the tax from the purchaser of the ticket to the airline selling the ticket. Under the Senate bill, this approach initiated the single fare concept, which was subsequently agreed to by the conferees.

But there were other matters which indicated the desirability of the single fare concept. Members of Congress and others who do considerable traveling are painfully aware of the long lines which back up the ticket counters of every major airline during the busy portions of the day. The Committee on Finance discussed this constant and recurring irritant to air travelers. We felt that one of the problems contributing to the slow pace of passengers past the ticket counter was the three-step calculation of the price which the airlines have employed for many years.

This involves first an entry showing the cost of the ticket. After the 5-percent tax has been computed, a second entry is made showing the amount of the tax. Then, a third entry is made when the two are added together. Commonsense tells us that it takes less time to make one entry on a ticket than it does to make three. Multiply that by 300 or 400 passengers waiting to board a Boeing 747, and you have saved all the passengers considerable time at ticket counters. Perhaps we have even made it possible for the flight to take off on time.

We felt this archaic system was not adaptable to the jet age. With the advent of the jumbo jets and air buses bringing literally hundreds of people to the same airline ticket counter at the same time, we felt that anything we could do to speed the ticket-issuing process would be in the best interest of airline passengers.

The committee was convinced that the single-fare concept would facilitate the issuance of airline tickets, a goal we can all agree is desirable.

In addition, instances have been called to the committee's attention of advertising air transportation fares to specified locations at one price—but then, when a customer comes to buy a ticket, he would be charged a higher price. When he complained, he was told that the difference was tax.

For example, the airlines will advertise in the newspapers that a ticket to New Orleans is $50, but when the passenger goes to the airport he finds that the cost of the ticket is $52.50 because they had to add a 5 percent tax. Under the new bill the cost of the ticket would be advertised at the true price of $54, which is the $50 plus the 8 percent tax. Which is misleading advertising? Is it misleading when the ticket is advertised at $50 and when the passenger gets to the airport he finds he has to pay $50, or to advertise the cost at $54 when it is $54? It seems to me it makes better sense that the price that is advertised and the price that is charged should be the same. To do it otherwise, we thought, would be misleading.

We felt this sort of false and misleading advertising of airline ticket prices should be stopped. We believed that an airline passenger had the right to know what the full cost of his ticket was going to be. Again, the single fare concept accomplished this desirable goal.

When the bill was sent to conference, the House conferees, at the urging of the airlines, insisted that the tax remain on the airline passenger. The airlines were in favor of higher taxes, but they wanted them imposed on the ticket purchaser. They argued that the ticket purchaser was the true user of the airway system. Although the airlines agreed with the single fare concept in the Senate bill, they did not like the idea of a tax being imposed on them.

When we advised the House conferees of why we felt the single-fare concept was a considerable improvement over the existing situation, they tended to agree with us. However, they felt the constitutional question raised in the Senate against the House version of the bill was invalid. They were willing to accept the single fare concept, but they insisted that the tax remain on the purchaser. Thus, it was necessary in conference when we went back to the House approach, to

write in specific language spelling out the single-fare concept. This was unnecessary under the Senate version of the bill. The single-fare concept was inherent in our approach of taxing the gross receipts of the airline.

Because of the drafting technique required to reflect the conference agreement, a sanction had to be added to the bill to insure the validity of the single-fare concept. This sanction requires that advertisements of airline fares show only the total amount charged for the flight being advertised. It requires that airline tickets show only the total price of the ticket, including the tax.

It is perfectly acceptable under the new statute, and I would encourage it, for the ticket to contain a statement that the price includes an 8-percent Federal excise tax. It is also perfectly satisfactory, and I would encourage it, for an airline or a travel agent to advise any inquirer of the amount of tax involved in any ticket. The sanction applies only to the three-step computation on the ticket itself, or in advertising with respect to airline transportation.

In my opinion, those who charge that the tax is being hidden from the public are doing a great injustice to the airline passengers of America and to their own profession. The amendments we enacted were designed with the consumer in mind.

The misinformation being spread by the travel agents strikes me as an effort by travel agents to completely snarl the orderly sale of air transportation tickets at airline ticket counters in order to enhance their own position as ticket sellers. I suspect they view the new bill, which makes it easier for passengers to deal directly and honestly with the airlines, as a threat to their business. Their actions come with poor grace.

Mr. President, there would be no problem with the new regulations if it were explained to all people traveling on the airlines that these tickets include 8 percent for the transportation tax to pay for airway safety.

In addition, even though the new law is not in effect, the airlines have already said that the way they would do business under the bill makes such good sense that, although the law does not now require it, they are already doing business that way.

For example, here is an airline ticket I just bought. Instead of stating that the price is $40 and then adding $2 and coming up with $42, it states the price is $42.

It makes no sense with people standing in line 20 passengers deep, some getting on one plane and some on another plane, to have to stand in line for 30 minutes while some clerk computes the fare, and then the tax, and about that time she finds that in her haste she made a mistake and she has to tear it up and start all over, that person who is 20 people deep in line has to miss his airplane because someone in front of him is waiting for this clerk to go through all these calculations. It makes better sense to print a single fare on the ticket. State also that it includes an 8-percent tax. I gather the airlines would put this note on the back. It would be all right with me to have it on the front. It would state there is included 8 percent to pay for airway construction and airway safety under the Aviation Facilities Expansion Act of 1969.

Then people will know what the total price is. As far as misleading advertising is concerned, it is more honest to advertise what the full price is rather than have a passenger think he is going to pay $50 to go somewhere when he has to pay $54.

PROGRAM

Mr. BYRD of West Virginia. I would like to announce the program for Monday with respect to the orders that have already been entered.

The Senate will convene at 9 o'clock on Monday morning, and immediately upon the disposition of the reading of the Journal, the distinguished Senator from Rhode Island (Mr. PELL) will be recognized for 40 minutes.

Following the remarks of Mr. PELL, the able Senator from Ohio (Mr. YOUNG) will be recognized for 20 minutes, following which the able Senator from Maryland (Mr. MATHIAS) will be recognized for 20 minutes, to be followed by the able Senator from South Dakota (Mr. MCGOVERN) who will be recognized for not to exceed 15 minutes.

After the remarks by Mr. MCGOVERN, there will be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

At the close of morning business on Monday next, but not later than 11 o'clock a.m., the conference report on H.R. 17399, the second supplemental appropriation bill for fiscal 1970, will be called up. There will be a time limitation thereon of 30 minutes, at the close of which a vote will occur on the conference report. It could very well be a voice vote.

Following the vote on the conference report, action will resume on H.R. 15628, the Foreign Military Sales Act, but no later than 12 o'clock noon.

Beginning at 12 o'clock noon on Monday next, there will be a time limit of 1 hour, to be equally divided, on the amendment which has been offered by Mr. ALLOTT. A vote will occur at 1 p.m. on the Allott amendment or on a motion to table. Other than that amendment there will be a limitation of 1 hour on each amendment, amendments thereto, appeals, and motions with the exception of a motion to lay on the table.

On Tuesday afternoon next, there will be a vote on the third committee amendment, the so-called Church-Cooper amendment as amended at 2 o'clock; and at 4 o'clock in the afternoon of Tuesday, there will be a vote on final passage of H.R. 15628, the Foreign Military Sales Act.

At 5:30 p.m. on Tuesday next, a motion will be made to override the President's veto of H.R. 11102. The time between the vote on final passage of the Foreign Military Sales Act and the vote on the motion to override the President's veto of H.R. 11102 will be equally divided between the majority and minority leaders.

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.

ADJOURNMENT UNTIL 9 A.M. MONDAY, JUNE 29

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until Monday at 9 a.m.

The motion was agreed to; and (at 5 o'clock and 44 minutes p.m.) the Senate adjourned until Monday, June 29, 1970, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 26, 1970:

IN THE ARMY

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Addiss, Daniel A., [redacted]
Foley, Raymond J., [redacted]
Goff, Lee A., [redacted]
Johnson, Ernest B., [redacted]
Johnson, Vernon E., [redacted]
Johnston, Norbert B., [redacted]
Kaye, John P., [redacted]
Kowsky, John J., [redacted]
Labarrie, John H., [redacted]
Miller, Janie R., [redacted]
Miyamoto, Atsushi A., [redacted]
Newman, Max E., [redacted]
Patten, John L., [redacted]
Sain, David B., [redacted]
Scott, Richard H., [redacted]
Wallace, Robert J., [redacted]
Young, James H., Sr., [redacted]

To be captain

Alexander, Harold L., [redacted]
Blubaugh, Thomas C., [redacted]
Burgin, Max E., [redacted]
Butcher, Richard D., [redacted]
Kirk, Marion R., [redacted]
Clanton, Charles T., [redacted]
Cooley, Virgil T., [redacted]
Courson, Donnie C., [redacted]
Craft, Jack J., [redacted]
Crawford, Roscoe D., [redacted]
David, Lawrence T., [redacted]
Deal, Thomas L., [redacted]
Edwards, Leroy E., Jr., [redacted]
Ellison, Joe M., [redacted]
Fiser, Robert H., Jr., [redacted]
French, Johnny B., [redacted]
Frost, Robert W., [redacted]
Goodwin, Thomas R., [redacted]
Green, Robert L., [redacted]
Greenburg, Alcuin E., [redacted]
Groen, Douglas J., [redacted]
Groover, Ralph H., Jr., [redacted]
Hammond, Glenn E., [redacted]
Hatch, Billy F., [redacted]
Hertzog, Robert W., [redacted]
Hessian, Patrick J., [redacted]
Jackson, James T., [redacted]
Johnson, Leroy, [redacted]
Johnson, Mitchell C., [redacted]
Lacy, Nelson C., [redacted]
Laster, James F., [redacted]
Law, Sherrill G., [redacted]
Lewis, Ronel L., [redacted]
Little, Lorem E., [redacted]

Lollini, Lance O., xxx-xx-xxxx
Marchi, John D., xxx-xx-xxxx
McCain, Williston B. P., xxx-xx-xxxx
McMillan, Andrew D., xxx-xx-xxxx
McWilliams, James L., xxx-xx-xxxx
Mentzer, Frederick F., xxx-xx-xxxx
Merrill, Thomas R., xxx-xx-xxxx
Miller, Richard M., xxx-xx-xxxx
Moss, James L., III, xxx-xx-xxxx
Murja, Milan, xxx-xx-xxxx
Newton, James F., xxx-xx-xxxx
Nix, Virgil L., xxx-xx-xxxx
Ohashi, David K., xxx-xx-xxxx
Peacock, William L., xxx-xx-xxxx
Peck, Ernest B., xxx-xx-xxxx
Pendergraft, Joe E., xxx-xx-xxxx
Perliss, Herbert, xxx-xx-xxxx
Pertain, George H., Jr., xxx-xx-xxxx
Phillips, Charles N., xxx-xx-xxxx
Phinney, Bruce A., xxx-xx-xxxx
Pirkle, John E., xxx-xx-xxxx
Pratt, Donald E., xxx-xx-xxxx
Privette, Foy E., Jr., xxx-xx-xxxx
Privitera, Charles R., Jr., xxx-xx-xxxx
Schneider, Robert L., xxx-xx-xxxx
Scott, Eugene W., xxx-xx-xxxx
Shea, Donald W., xxx-xx-xxxx
Sheppard, John B., xxx-xx-xxxx
Smith, Harold B., xxx-xx-xxxx
Steffey, Chester R., II, xxx-xx-xxxx
Stewart, Vivian L., xxx-xx-xxxx
Stoy, Thomas A., xxx-xx-xxxx
Thompson, Thomas R., xxx-xx-xxxx
Toomer, Charles E., xxx-xx-xxxx
Trahan, Frank W., xxx-xx-xxxx
Torp, John P., xxx-xx-xxxx
Turner, Frederick C., Jr., xxx-xx-xxxx
Vander Wende, Martin J., xxx-xx-xxxx
Whelan, Patricia A., xxx-xx-xxxx
Wilson, Chester, xxx-xx-xxxx

To be first lieutenant

Allen, Robert A., xxx-xx-xxxx
Alvord, Charles H., III, xxx-xx-xxxx
Andersen, Allen D., xxx-xx-xxxx
Angell, Gary M., xxx-xx-xxxx
Anton, John J., Jr., xxx-xx-xxxx
Baird, Thomas F., xxx-xx-xxxx
Barnes, Darvin E., xxx-xx-xxxx
Barsh, John E., xxx-xx-xxxx
Basta, Patricia J., xxx-xx-xxxx
Bennett, George C., xxx-xx-xxxx
Berthold, Andrew C., xxx-xx-xxxx
Biegen, William K., xxx-xx-xxxx
Biesemeier, Paul A., xxx-xx-xxxx
Bode, Howard J., xxx-xx-xxxx
Brehm, Robert L., xxx-xx-xxxx
Bullard, Ponce D., Jr., xxx-xx-xxxx
Busch, Brian J., xxx-xx-xxxx
Butler, John C., xxx-xx-xxxx
Campbell, Vernon A., xxx-xx-xxxx
Carter, Hubert C., xxx-xx-xxxx
Childs, Norman R., xxx-xx-xxxx
Clark, David W., xxx-xx-xxxx
Clarke, Harold R., Jr., xxx-xx-xxxx
Collier, Ronald O., xxx-xx-xxxx
Cotter, Harold M., Jr., xxx-xx-xxxx
Dabney, James F., xxx-xx-xxxx
Daskal, James A., xxx-xx-xxxx
Davis, Ronald C., xxx-xx-xxxx
Deen, Don E., xxx-xx-xxxx
De Mont, Francis T., Jr., xxx-xx-xxxx
Dix, Leslie F., Jr., xxx-xx-xxxx
Dresin, Sanford L., xxx-xx-xxxx
Duedall, Robert L., xxx-xx-xxxx
Duke, Earl L., xxx-xx-xxxx
Eason, Lewis C., xxx-xx-xxxx
Edwards, Gilbert R., xxx-xx-xxxx
Elrod, Thomas W., xxx-xx-xxxx
Eubanks, Bobbie R., xxx-xx-xxxx
Everett, Harry, Jr., xxx-xx-xxxx
Eyler, Christopher B., xxx-xx-xxxx
Farr, James E., Jr., xxx-xx-xxxx
Ferland, Paul E., xxx-xx-xxxx
Forrester, Thomas R., xxx-xx-xxxx
Frazier, Robert E., xxx-xx-xxxx
Fuller, David W., Jr., xxx-xx-xxxx
Fulton, James W., Jr., xxx-xx-xxxx
Gantt, Stephen Y., xxx-xx-xxxx
Godina, William J., xxx-xx-xxxx
Goligoski, Josephine A., xxx-xx-xxxx
Grauel, Richard L., xxx-xx-xxxx
Greenwell, Bernard J., Jr., xxx-xx-xxxx
Grice, Richard L., xxx-xx-xxxx
Grove, Robert B., xxx-xx-xxxx
Guthrie, Charles T., xxx-xx-xxxx
Hampton, Ralph C., Jr., xxx-xx-xxxx
Hartman, John D., xxx-xx-xxxx
Hartong, John M., xxx-xx-xxxx
Haynes, Thomas R., xxx-xx-xxxx
Henry, Thomas F., xxx-xx-xxxx
Herbster, Kenneth J., xxx-xx-xxxx
Hering, Gregory D., xxx-xx-xxxx
Hill, Dale R., xxx-xx-xxxx
Hill, Leroy, xxx-xx-xxxx
Holverson, John E., xxx-xx-xxxx
Howard, Robert M., xxx-xx-xxxx
Jarvis, Larry E., xxx-xx-xxxx
Johnson, Dennis H., xxx-xx-xxxx
Johnson, Henry H., Jr., xxx-xx-xxxx
Johnson, John J., xxx-xx-xxxx
Jones, James H., xxx-xx-xxxx
Kilbane, Joseph A., xxx-xx-xxxx
Kilpatrick, Claude M., Jr., xxx-xx-xxxx
Knapp, Robert D., xxx-xx-xxxx
Konitzer, Thomas J., xxx-xx-xxxx
Koontz, Ronald D., xxx-xx-xxxx
Kraus, James W., xxx-xx-xxxx
Kuhlman, Kenneth D., xxx-xx-xxxx
Kuhn, John B., xxx-xx-xxxx
Kutter, Wolf D., xxx-xx-xxxx
La Croix, Francis A., xxx-xx-xxxx
Lake, Roy G., xxx-xx-xxxx
Lamback, Samuel P., Jr., xxx-xx-xxxx
Land, Henry P., xxx-xx-xxxx
Latella, Donald D., xxx-xx-xxxx
Le Claire, George H., Jr., xxx-xx-xxxx
Limmer, Bobby L., xxx-xx-xxxx
Lively, Robert W., xxx-xx-xxxx
Lowry, Larry K., xxx-xx-xxxx
Luedee, Rene, xxx-xx-xxxx
Magee, Gerry A., xxx-xx-xxxx
Marrs, Glen E., Jr., xxx-xx-xxxx
Martin, John T., III, xxx-xx-xxxx
Maxwell, Otis C., xxx-xx-xxxx
McBride, Reid A., xxx-xx-xxxx
McCarthy, Michael J., xxx-xx-xxxx
McCarty, Alan J., xxx-xx-xxxx
McCleary, William D., xxx-xx-xxxx
McMinn, Hubert W., Jr., xxx-xx-xxxx
Mertel, Paul T., Jr., xxx-xx-xxxx
Mitchell, Robert C., xxx-xx-xxxx
Murphy, Mortimer J., III, xxx-xx-xxxx
Mutter, Glen H., xxx-xx-xxxx
Nation, Charles E., xxx-xx-xxxx
Neil, George M., Jr., xxx-xx-xxxx
Nieland, John B., xxx-xx-xxxx
Noel, Lloyd A., xxx-xx-xxxx
Patterson, David L., xxx-xx-xxxx
Payne, Thomas H., xxx-xx-xxxx
Pennell, Clifford R., xxx-xx-xxxx
Perkins, William M., xxx-xx-xxxx
Phelan, Edward W., xxx-xx-xxxx
Pipes, David G., xxx-xx-xxxx
Poole, Walter A., Jr., xxx-xx-xxxx
Rawls, Jimmie D., xxx-xx-xxxx
Richardson, Eugene B., xxx-xx-xxxx
Roberge, Leo A., xxx-xx-xxxx
Russell, Earl L., III, xxx-xx-xxxx
Russell, James R., xxx-xx-xxxx
Schmus, Richard J., xxx-xx-xxxx
Schulz, Bruno, xxx-xx-xxxx
Sever, Kenneth C., xxx-xx-xxxx
Sharp, Billy R., xxx-xx-xxxx
Shaver William G., xxx-xx-xxxx
Shepard, James G., xxx-xx-xxxx
Siemon, Patrick G., xxx-xx-xxxx
Sims, Stuart D., xxx-xx-xxxx
Smiley, Francis E., xxx-xx-xxxx
Snider, John E., xxx-xx-xxxx
Snyder, David L., xxx-xx-xxxx
Sobecke, James B., xxx-xx-xxxx
Sosnowski, John J., xxx-xx-xxxx
Stone, Alan E., xxx-xx-xxxx
Stone, Edwin S., III, xxx-xx-xxxx
Sullivan, John E., Jr., xxx-xx-xxxx
Swenson, Peter C., xxx-xx-xxxx
Szlachetka, Marion E., xxx-xx-xxxx
Tatum, Timothy C., xxx-xx-xxxx
Tedeschi, Emeric R., xxx-xx-xxxx
Temo, James M., xxx-xx-xxxx
Templer, Thomas W., xxx-xx-xxxx
Thompson, Conley C., xxx-xx-xxxx
Tooke, Michael S., xxx-xx-xxxx
Thrall, James H., xxx-xx-xxxx
Varosy, Paul S., xxx-xx-xxxx
Vedrani, Ronald W., xxx-xx-xxxx
Voegeli, Albert H., Jr., xxx-xx-xxxx
Walden, Charles C., xxx-xx-xxxx
Walsh, William G., xxx-xx-xxxx
Wasserman, Harold, xxx-xx-xxxx
Welch, Alfred C., xxx-xx-xxxx
Whaley, David A., xxx-xx-xxxx
White, John T., xxx-xx-xxxx
Willette, Larry J., xxx-xx-xxxx
Williamson, Cline H., Jr., xxx-xx-xxxx
Wilson, Edward E., xxx-xx-xxxx
Wilson, Norris A., II, xxx-xx-xxxx
Wray, Christopher P., xxx-xx-xxxx
Yanchar, Joseph J., xxx-xx-xxxx
Zalar, Joseph, Jr., xxx-xx-xxxx

To be second lieutenant

Banzhoff, Ernest L., xxx-xx-xxxx
Barcellos, Terrance D., xxx-xx-xxxx
Barry, John J., Jr., xxx-xx-xxxx
Beals, Bruce S., xxx-xx-xxxx
Botelho, Michael J., xxx-xx-xxxx
Brooks, Donald P., xxx-xx-xxxx
Charlton, Donald G., xxx-xx-xxxx
Gerhards, William F., xxx-xx-xxxx
Harris, Charles W., III, xxx-xx-xxxx
Hirschman, Norman J., xxx-xx-xxxx
Hogan, Lawrence G., xxx-xx-xxxx
Ison, Constance G., xxx-xx-xxxx
Kessler, Craig M., xxx-xx-xxxx
Ladensack, Joseph C., xxx-xx-xxxx
Lander, Walter E., Jr., xxx-xx-xxxx
Lingle, William R., xxx-xx-xxxx
Mahoney, Larry G., xxx-xx-xxxx
Malewski, Edward, xxx-xx-xxxx
Marcotte, Robert G., xxx-xx-xxxx
McAllister, John M., xxx-xx-xxxx
McClelland, Robert C., III, xxxx
Mutarelli, John C., xxx-xx-xxxx
Parrott, George E., xxx-xx-xxxx
Parrott, Leon F., xxx-xx-xxxx
Patton, John E., xxx-xx-xxxx
Powell, Frank L., III, xxx-xx-xxxx
Rudewick, William K., xxx-xx-xxxx
Shestok, Michael J., xxx-xx-xxxx
Sodetz, Frank J., Jr., xxx-xx-xxxx
Stone, Sandra L., xxx-xx-xxxx
Tarvin, Lee T., xxx-xx-xxxx
Thomas, James B., xxx-xx-xxxx
Thomas, John D., Jr., xxx-xx-xxxx
Thompson, Paul M., xxx-xx-xxxx
Watson, Raymond T., xxx-xx-xxxx
Watt, Robert L. III, xxx-xx-xxxx
Whitt, Sandra S., xxx-xx-xxxx
Wilgen, Michael C., xxx-xx-xxxx
Winters, James M., xxx-xx-xxxx
Worthen, George G., xxx-xx-xxxx

The following-named scholarship student for appointment in the Regular Army of the United States in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2107, 3283, 3284, 3286, 3287, 3288, and 3290:

Szymanski, Dennis, xxx-xx-xxxx

CONFIRMATIONS

Executive nominations confirmed by the Senate, June 26, 1970:

Diplomats and Foreign Service

Robert McClintock, of California, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela.

Roswell D. McClelland, of New York, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger.

Agency for International Development

Maurice J. Williams, of West Virginia, to be Deputy Administrator, Agency for International Development.

U.S. Circuit Judge

William E. Miller, of Tennessee, to be a U.S. circuit judge, sixth circuit.