

HOUSE OF REPRESENTATIVES—Tuesday, May 25, 1971

The House met at 12 o'clock noon.

Rev. Clarence W. Cranford, Calvary Baptist Church, Washington, D.C., offered the following prayer:

We pause, O God, to invoke Thy blessing on this body as it meets today. We thank Thee that it meets in a nation where people are free to pray, and where people are taught to respect and honor each other's opinions.

Guide us, O God, as we seek to deal with the complex issues of our time. May we always be willing to listen to the cries of those who know from bitter experience where the shoe pinches. But may we never substitute government by a rabble for government by the people. May we never substitute ranting for reason, or wishful thinking for hard work.

Teach us, O God, that there is no particular virtue in weakness, but much virtue in meekness. Help us to be self-reliant without being self-righteous. May we never be too arrogant to listen, or too proud to pray.

Be with the Members of this body to whom the people have delegated such awesome responsibility. May the echoes of what they say and do this day enhance the image of America around the world. Because of their deliberations and actions, may we not only be a stronger nation, but a better one. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate had passed the following resolution:

S. RES. 127

Resolved, That the Senate has heard with profound sorrow and regret the announcement of the death of Honorable Thomas J. Dodd, who served in the United States Senate from the State of Connecticut from 1959 to 1971.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

TRIBUTE TO DR. CLARENCE CRANFORD

(Mr. ANDREWS of Alabama asked and was given permission to address the House for 1 minute.)

Mr. ANDREWS of Alabama. Mr. Speaker, next month, Dr. Clarence Cranford, who gave our prayer this morning, will retire after 40 years in the ministry, 30 of them spent in Calvary Baptist Church in downtown Washington. He has always been ecumenical in his in-

terests. At one time, he served as chairman of an interfaith committee known as the Committee on Religious Life in the Nation's Capital. He also served two terms as president of the Washington Council of Churches. This last week, he preached the Sabbath Day sermon in one of the leading local synagogues.

Dr. Cranford has opened both Houses of Congress with prayer on several occasions. He first offered the prayer in the Senate at the invitation of Dr. Zebarnay Phillips, then the Chaplain of the Senate. He later represented Chaplain Peter Marshall and Chaplain Frederick Brown Harris, both of whom were his friends. In fact, as Dr. Peter Marshall was being carried from his home on the morning of his last heart attack, he instructed his wife to ask Dr. Cranford to give the prayer at the next session of the Senate. On the day of Peter Marshall's funeral, Dr. Cranford opened the Senate by reading the last prayer Dr. Marshall wrote before his death. Catherine Marshall tells about this in her book, "A Man Called Peter."

Dr. Cranford has opened the House with prayer both at the invitation of the late Dr. Braskampf and the present Chaplain, Dr. Edward Latch. After the death of his first wife, Dr. Cranford's second marriage was performed by Dr. Latch.

Mrs. Cranford is no stranger to Capitol Hill. For many years, her father, George H. Jones, worked for Mr. William Tyler Page when Mr. Page was Clerk of the House of Representatives. Mr. Page is remembered as an outstanding Parliamentarian and as the author of the "American Creed."

At one time, as many as nine Members of the House of Representatives attended the services of Calvary Baptist Church, and once honored him with a luncheon in the House restaurant. In 1957, when Dr. Cranford served as president of the American Baptist Convention, the Honorable Brooks Hays, then a Member of the House of Representatives and also of the Calvary Baptist Church, served as president of the Southern Baptist Convention. They appeared on many platforms together.

Mr. Speaker, I take this occasion to wish for Dr. Cranford and his lovely wife, Dorothy, a well-earned rest when his time expires at the Calvary Baptist Church and he goes on into retirement—not to sit down and rust away but to be active in carrying on the ministry of the church throughout this world.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

MAY 24, 1971.

The Honorable the SPEAKER,
U.S. House of Representatives.

DEAR SIR: Pursuant to authority granted on May 24, 1971, the Clerk received from the

Secretary of the Senate today the following Message:

"That the Senate agree to the amendments of the House of Representatives to Senate amendments numbered 2, 18, 38, 49, 57, and 59 to the bill (H.R. 8190) entitled 'An Act making supplemental appropriations for the fiscal year ending June 30, 1971, and for other purposes.'"

With kind regards, I am,
Sincerely,

W. PAT JENKINS,
Clerk, U.S. House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Monday, May 24, 1971, he did, on that day, sign the following enrolled bill of the House:

H.R. 8190. An act making supplemental appropriations for the fiscal year ending June 30, 1971, and for other purposes.

RESIGNATION FROM U.S. DELEGATION OF THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER laid before the House the following resignation:

MAY 24, 1971.

HON. CARL ALBERT,
The Speaker,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: It is with a deep feeling of regret that I find it necessary to return to California Wednesday night or Thursday morning, which will prevent my taking the trip to Mexico.

I regret having to resign from the Committee. However, I want to thank you for appointing me as a member of the delegation representing the United States at the Eleventh Mexico-U.S. Interparliamentary Conference.

Sincerely yours,
HAROLD T. (BIZZ) JOHNSON,
Member of Congress.

APPOINTMENT AS MEMBER OF THE U.S. DELEGATION OF THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER. Pursuant to the provisions of section I, Public Law 86-420, the Chair appoints as a member of the U.S. delegation of the Mexico-United States Interparliamentary Group the gentleman from Arizona, Mr. UDALL, to fill the existing vacancy thereon.

CALL OF THE HOUSE

Mr. GROVER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 107]

Abernethy	Frey	Patman
Abourezk	Gallagher	Pelly
Anderson,	Gialmo	Pike
Tenn.	Gibbons	Pirnie
Archer	Grasso	Podell
Ashley	Green, Pa.	Price, Tex.
Baker	Griffin	Railsback
Baring	Gubser	Rangel
Bergland	Halpern	Rees
Betts	Hanna	Reid, N.Y.
Bevill	Harsba	Roe
Biaggi	Hastings	Roy
Blanton	Helstoski	Roybal
Bolling	Ichord	Runnels
Brooks	Jacobs	Ruppe
Buchanan	Jones, Tenn.	Scherle
Burke, Fla.	Karh	Scheuer
Camp	Keith	Shibley
Casey, Tex.	Kuykendall	Skubitz
Celler	Landrum	Slack
Chappell	Latta	Smith, Iowa
Clark	Leggett	Spence
Clausen,	Long, La.	Steiger, Wis.
Don H.	McCulloch	Stubblefield
Clay	McKay	Sullivan
Corman	Mann	Talcott
Crane	Martin	Teague, Calif.
de la Garza	Mathias, Calif.	Ullman
Dellenback	Mazzoli	Waggonner
Dent	Metcalfe	Watts
Dickinson	Miller, Calif.	Whalley
Diggs	Mink	Whitten
Dwyer	Minshall	Wiggins
Edwards, Ala.	Montgomery	Wilson,
Edwards, La.	Moorhead	Charles H.
Flowers	Murphy, N.Y.	Winn
Flynt	Nichols	Wyman
Ford,	O'Hara	
William D.	Passman	

in which he believed. He will long be remembered for his fight against drugs and against the spread of crime. He will be remembered for his opposition to the spread of totalitarianism in whatever form it took.

He will be remembered long in our State for his liberal positions on social and economic matters and on legislation which was for the good of our State and country.

Tom Dodd was helpful to me on many occasions and I feel a personal loss in his passing.

He leaves a devoted and wonderful family. I know that I express the feelings of all Members of this body when I extend our deep sympathy to Grace Dodd and to the members of his family.

Mr. Speaker, I announce that I shall at a later date ask unanimous consent that I may have a special order devoted to the life and the legislative record of Tom Dodd.

Mr. TIERNAN. Mr. Speaker, will the gentleman yield?

Mr. MONAGAN. I yield to the gentleman from Rhode Island.

Mr. TIERNAN. I concur with the remarks of my distinguished colleague from Connecticut and express my deepest sympathy to the family of the late Senator Thomas Dodd.

TRANSFER OF SPECIAL ORDER

Mr. MONAGAN. Mr. Speaker, I ask unanimous consent that the special order which I have for tomorrow may go over until 1 week from tomorrow, Wednesday, June 2.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

ORDER OF BUSINESS

The SPEAKER. The Chair will now receive unanimous consent requests but will not recognize Members for 1-minute speeches on any subject other than the announcement of deaths and similar matters.

APPROVING REORGANIZATION PLAN NO. 1 OF 1971

Mr. HOLIFIELD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 411) disapproving Reorganization Plan No. 1, transmitted to the Congress by the President on March 24, 1971; and pending that motion, Mr. Speaker, I ask unanimous consent that debate on the resolution may continue not to exceed 3 hours, the time to be equally divided and controlled by the gentleman from New York (Mr. HORTON) and myself.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. THOMPSON of New Jersey. Mr. Speaker, reserving the right to object, I wish to clarify the time situation.

Is my understanding correct, I ask the gentleman from California (Mr. HOLIFIELD) that the gentleman and our distinguished colleague from New York (Mr. HORTON) have agreed to divide the time equally between themselves as proponents and myself and others are opponents?

Mr. HOLIFIELD. That is correct. We feel this plan should be discussed on its merits. We have no desire at all to preclude the opposition to the plan from having their time on the floor. Both the gentleman from New York (Mr. HORTON) and I have agreed that we will give half of such time as we may consume totally to the gentleman from New Jersey and his friends who are opposing the plan. If it is possible for us to consummate our debate in less than 3 hours, I suppose that would be all right with the gentleman, so long as we divide the time fairly.

Mr. THOMPSON of New Jersey. Mr. Speaker, further reserving the right to object—and I likely will not object—does the gentleman from New York agree?

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from New York.

Mr. HORTON. I want to indicate my agreement with the statement made by the gentleman from California, that it is my intention to provide half the time I have, 45 minutes, to the gentleman from New Jersey or others who are in opposition to the plan.

Mr. THOMPSON of New Jersey. Can we understand—in the hope that perhaps we will not use 3 hours—that the time following the remarks of the gentleman from California, the chairman of the committee, and of the gentleman from New York, the ranking minority Member, will be alternate time?

Mr. HOLIFIELD. That will be satisfactory to me. I would prefer it that way, personally.

Mr. THOMPSON of New Jersey. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from California.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 411, with Mr. BRADEMAs in the chair.

The Clerk read the title of the resolution.

By unanimous consent, the first reading of the resolution was dispensed with.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from California (Mr. HOLIFIELD) will be recognized for 1½ hours, and the gentleman from New York (Mr. HORTON) will be recognized for 1½ hours.

The Chair recognizes the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, I yield myself such time as I may consume.

The SPEAKER. On this rollcall 321 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE REPORTS

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight to file certain privileged reports.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

DEATH OF FORMER MEMBER AND SENATOR THOMAS J. DODD, OF CONNECTICUT

(Mr. MONAGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONAGAN. Mr. Speaker, I have the sad duty of announcing to the House the death of a dear friend of mine and a one-time Member of this body, Thomas J. Dodd, who died on Monday in Old Lyme, Conn. Tom Dodd was well known to most of the Members of this body. He served in this House for two terms, being elected in 1952 and 1954, and subsequent to that time he was for two terms a Member of the other body.

In addition to his congressional career, he served our Government in other ways over a long period of time. He was for many years an active and effective member of the FBI. He was a director of the NYA. He also served as chief of the prosecuting staff at the Nuremberg Trials after World War II.

He was a courageous fighter for causes

Mr. Chairman, House Resolution 411 is a resolution to disapprove Reorganization Plan No. 1 of 1971 submitted to the Congress by President Nixon on March 24. Both the plan and the resolution were referred to the Committee on Government Operations under the rules of the House. The committee has reported back the resolution with a recommendation that it not be approved. This is in effect an endorsement of the plan itself which we hope will be supported by the House. The vote, however, will be on the resolution itself. Those who favor the plan should vote "no" on the resolution. Those who oppose the plan should vote "aye" on the resolution.

The President proposes in the reorganization plan to create a new agency called Action to which would be transferred:

First, Volunteers in Service to America, now in the Office of Economic Opportunity;

Second, auxiliary and special volunteer programs, now in the Office of Economic Opportunity;

Third, Foster Grandparents, now in the Department of Health, Education, and Welfare;

Fourth, the retired senior volunteer program, now in the Department of Health, Education, and Welfare; and

Fifth, the Service Corps of Retired Executives and Active Corps of Executives, both now in the Small Business Administration.

The President intends later to transfer the Peace Corps to the new agency by executive order and to similarly transfer the Office of Volunteer Action.

The President advised in his message that he also intends to submit legislation to Congress to transfer the Teacher Corps from HEW to Action.

There are involved in these transfers approximately 1,650 regular employees—not including the volunteers—and appropriations in excess of \$140 million.

The purpose of the plan is to reorganize and consolidate the present volunteer system now spread among a number of different agencies of the Government. This is an essential first step, according to the President, "toward the goal of a system of volunteer service which uses to the fullest advantages the power of all the American people to serve the purposes of the American Nation."

As you have noticed, our hearings were held in depth and the varying points of view about the plan were fully expressed.

Considerable opposition to transferring their programs was registered by the VISTA volunteers who work in the poverty program, the SCORE volunteers who assist small businesses and retirees involved in the Foster Grandparents and other programs.

The VISTA opposition seemed to be based on fear that the reorganization would be a means of deemphasizing the poverty effort and reducing its financial support. This view was also expressed by Chairman PERKINS and other members of the Committee on Education and Labor. However, the Assistant Director

of the Office of Management and Budget testified that the President intended to request an additional \$20 million in appropriations for Action, and in a subsequent letter to our colleague FRANK HORTON, George Shultz, the Director, reaffirmed this intention and said the \$20 million would go entirely into "new and innovative domestic programs, with the majority of the funds to be committed to antipoverty efforts." Shultz said further that—

This commitment will considerably more than offset cuts in the fiscal year 1972 VISTA program, which were necessitated by overall fiscal year 1972 budget pressures . . . A great deal of thought has been given to the retention of existing program entities and titles in Action. While the legal status of the VISTA name will be unchanged by the Reorganization Plan (the name currently appears only in Title VIII of the Economic Opportunity Act as a program title), the Administration has no intention of changing the name of the group of full-time, domestic volunteers who comprise the VISTA program.

The opposition of the SCORE volunteers seemed to be based on a desire not to be affiliated with other strictly non-business volunteer activities. Opposition to the transfer of SCORE and ACE also came from Chairman WRIGHT PATMAN of Banking and Currency and Chairman JOE EVINS of the Small Business Committee. But it was clearly stated in the plan that although the SCORE group would be included in Action "that such individuals or groups of persons, in providing technical and managerial aids to small business concerns, shall remain subject to the direction of the Small Business Administration."

The opposition of the retired teachers was based on concern that the two most important programs in the Administration on Aging of the HEW—Foster Grandparents and RSVP—were being taken away leaving AOA with very little remaining and thereby unable to fulfill the goals Congress had for it. But it was reported to us that Secretary Richardson of HEW said that changes to be made would actually strengthen the AOA and that the misgivings were not well founded. It was also noted that the budget of AOA for 1972 had been increased by 23 percent over the present fiscal year.

There was strong support for the plan as well. The president of the United Way of America, composed of the community funds throughout the country, endorsed the plan. He believes the Government should mobilize all of its voluntary activities into one central organization. The president of the National Business League, composed of minority businessmen, favored the plan in part on the ground that the present activities of SCORE were not fully meeting the needs of his membership.

After the hearings we received a statement from John W. Gardner, former Secretary of Health, Education, and Welfare and the chairman of Common Cause. He also strongly supports the plan and mentioned that he had proposed the same type of organization in 1967 while a member of the Cabinet. Part of the

problem, he indicated, is the apprehension that is apparently inevitable whenever the bureaucracy faces an organizational change. He said:

I carried through many reorganizations when I was Secretary of HEW and most of them evoked a level of anxiety bordering on panic.

I might say that throughout the years nearly every reorganization plan seems to be opposed by those to be moved. This is only natural, I suppose.

We weighed all of the pros and cons of the matter very carefully and a majority concluded that the plan was an improvement over existing organizational arrangements and should lead to a more effective utilization of volunteers for the many areas in which they may render service. Particular advantages of the new program will be to make possible the fuller exchange of ideas and experiences between overseas and domestic volunteer efforts and permit easier movement of volunteers from one program to another.

We recognize that this plan contains various imperfections which, unfortunately, cannot be remedied except by voting down the entire plan. On balance, they are not of such magnitude that such a drastic step should be taken. In such a case the benefit of the doubt should go to the President.

We requested and have received a cost estimate on this plan from the Office of Management and Budget. The Associate Director states that some savings will result from the consolidation of certain administrative functions and recruitment activities and that any increases in costs of the programs involved will result, not from the effectuation of Reorganization Plan No. 1, but from future innovative changes in those programs. We concur in this estimate.

I want to explain something so that all the Members will know exactly what we are talking about in regard to the charts. The chart that you will find in the report is not an up-to-date chart. It was given to us earlier and it was embodied in the report before certain changes were made. However, the language of the plan itself does pick up the chart that you see in the report.

As this matter was considered in the other body, certain clarifications were made in intent and meaning by the administration. The administration was very frank to say that they thought improvements could be made, but realizing that you cannot amend a Presidential plan, the only thing they could say to the Members in the other body, in the committee that criticized the plan, was that they would elevate the Associate Directors from a five-line agency under a Director and Deputy Director, and they would form an organization like this one that you see here on my right. They would put two Associate Directors up here under the Director and Deputy Director, and they would take the three Associate Directors and put them on a lower level in the operational area. Directional control would be in the Associate Directors, and the other three Associate Directors

shown in the chart in the report would be placed on a lower level as Assistant Directors. You will note that one of the Associate Directors will have charge of the international organizations, and another would have charge of the domestic organizations, which, it seems to me, is an improvement on the original chart. It is a shifting around of the organization, and they agreed to the other body that this would make for better organization control.

We had letters from Mr. Shultz, the director of the OMB, and Mr. Blatchford of the Peace Corps, in which they acquiesce to this. They make it clear that it cannot be done in the plan, but they concede this is a better arrangement, and they will subsequently send up some minor legislation which will permit this change.

So the plan as it is written is not exactly like this chart. I want this to be plain to the membership. The plan is very much like the chart printed in the report. This was not our committee's doing, this was the administration making these changes after consultation with the members of the Committee on Government Operations of the other body. We have looked at this very carefully and believe it is better, and we want to call it to your attention.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Iowa.

Mr. GROSS. How did the Peace Corps get into this scorecard and lineup? It has international implications, does it not?

Mr. HOLIFIELD. It does. The administration feels that putting all of the volunteer agencies into one pyramidal type of control will result in utilizing their personnel better. If people apply to this one action agency and say they want to volunteer for public service, they might be told, for instance, that there was no room for them in the international Peace Corps, but that "We can use you in the ghettos of the cities of America." Then if they want to take that job, they can. They must volunteer for any of these jobs.

Mr. GROSS. Will they have to change the name from Peace Corps to ghetto workers or something like that?

Mr. HOLIFIELD. No; the name of the Peace Corps is retained. The name of VISTA is retained. The names of the present agencies are all retained, they are merely put together in an overall agency with one man at the top in place of six or seven different administrators.

Mr. GROSS. That is what I was afraid of. As I said earlier today, this seems to be proof of the old adage that there is nothing so permanent in Washington as something temporary. I have hoped for a good many years that this Peace Corps business, costing anywhere from \$75 million to \$100 million per year, would be washed out and ended. But it appears to me now that if it is frozen into this picture it will go on in perpetuity.

Mr. HOLIFIELD. I will say to the gentleman that it is no more frozen in now than it was before—this is according to the request of the administration.

Mr. GROSS. I have no doubt about that. The administration is for continuing the Peace Corps and expanding other foreign handout programs. So I have no doubt that the administration is for this, but it still gives me concern.

Mr. HOLIFIELD. May I inform the gentleman that in the fiscal year 1972 budget, there is a reduction in the international organizations funds, but there is now proposed an increase of \$20 million in domestic funds, the money we spend here at home. Now whatever comfort the gentleman may get from that, that is a fact.

Mr. GROSS. Is the gentleman aware that in recent days this Government has borrowed \$2 billion American dollars, called Euro dollars because they are held by individuals and central banks of Europe, and we are paying a premium of at least 2.2 percent interest on top of the basic interest rate for these borrowings? It seems to me that instead of freezing the Peace Corps into some kind of permanent setup, we should be getting rid of these foreign aid instrumentalities through which dollars are poured out to Europe and help create a terrific deficit in the international balance of payments.

Mr. HOLIFIELD. The gentleman has a point, but it is not involved in this plan, I will say. One of the causes of the recent reevaluation of the mark in Germany was the flight of dollars from the United States to Europe to get higher interest rates than they could get here at home.

Mr. GROSS. Yes, it is involved through the Peace Corps and all the rest of the international do-good organizations.

Mr. HOLIFIELD. Now to explain in detail, I want this to be in the RECORD. The new agency, Action, to be established by the executive branch under Reorganization Plan No. 1 of 1971 is described in section 1 of the plan.

The agency will be headed by a Director appointed by the President, confirmed by the Senate, and compensated at the rate prescribed for level III executives, which is \$40,000 a year.

The Director will be assisted by a Deputy, also appointed by the President and subject to Senate confirmation, compensated at the level IV rate, which is \$38,000 a year.

The the plan, in section 1(d), provides for a maximum of four Associate Directors, appointed by the President and subject to Senate confirmation, to be compensated at level V rates or \$36,000 a year.

House Report 92-222 carries, at page 18, an organization chart which outlines the organizational concept as it was contemplated at the time of the committee hearings, which ended on May 4, 1971. That chart shows five Associate Directors instead of four. Technically this is an error, since the Associate Director for Administration actually will be an Assistant Director, compensated at a grade 18 rate, which is \$36,000 per year.

Administration witnesses, after testifying before our committee, made a commitment to Members of the other body that the internal management structure

would be further revised. Since the reorganization plan is not open to amendment, but must be voted up or down, the only way that the changes could be accomplished is through legislation. Consequently, what I say hereafter in explanation is what the administration proposes to accomplish in new legislation. This proposal is not before us today in Reorganization Plan No. 1. It is offered only to explain what has happened since our report was prepared.

In response to objections raised in the other body, the administration now proposes to have two Associate Directors, one for international programs, the other for domestic and antipoverty programs, both to be compensated at level IV rates of \$38,000 a year. The Peace Corps activities would be under the direction of the Associate Director for International programs, whereas domestic programs, including VISTA, would be under the Associate Director for Domestic and Antipoverty programs.

Each of the Associate Directors would have under his direction also a field organization, based on the existing setup of four regions for the Peace Corps and 10 regions for VISTA and the domestic programs.

Below the two Associate Directors, who are the program operators, there would be three Assistant Directors for staff functions; one for program development; another for recruitment, selection, and placement; and another for administration. As I mentioned earlier, the Assistant Director for Administration would be a grade 18 at \$36,000, who would be appointed by the Director without the need for Senate confirmation. The other two Assistant Directors would be level V, also at \$36,000, but appointed by the President and subject to Senate confirmation.

In sum, then, the top organization of Action, if and when new legislation is submitted and enacted, will include a Director and Deputy, as before, two Associate Directors for program direction—one for international and one for domestic programs—and three Assistant Directors for staff and administrative support. The two Associate Directors are to be stepped up to level IV on a par with the Deputy Director, whereas the Assistant Directors—except for the Director for Administration—remain at level V.

In conclusion, I request that the Members approve the President's plan by voting "no" on the resolution of disapproval.

At this point, Mr. Chairman, I insert the three administration letters previously referred to in my remarks:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C. May 24, 1971.

HON. CHET HOLIFIELD,
House of Representatives,
Washington, D.C.

DEAR MR. HOLIFIELD: I would like to inform you of the results of discussions with Senator Javits and others on suggested improvements in the organization and program direction of ACTION, the volunteer service agency proposed by Reorganization Plan No. 1 of 1971.

These changes involve significant points of emphasis in the organizational structure

of the new agency and other changes in the level of executive positions which would be incorporated in legislation to be submitted by the Administration. Specifically, the changes are as follows:

1. The Associate Director for Domestic Operations will be redesignated as Associate Director for Domestic and Anti-Poverty Programs to emphasize more visibly and forcefully the commitment of the elements of this organization to anti-poverty efforts.

2. The Associate Directors for Program Development, Administration, and Recruitment-Selection-Placement will be redesignated as Assistant Directors to indicate their staff role as supportive to the line Associate Directors, who have primary program responsibility.

3. The formal organizational structure will be modified to underscore the fact that the two Associate Directors will be line operators of ACTION's Programs and will be supported in a staff capacity by the Assistant Directors. The net result of these changes will be to show that the two Associate Directors will be the ACTION program operators. In that capacity, and in full recognition of their substantial responsibilities, I agree that they should be upgraded from Level V, as indicated in the Reorganization Plan, to Level IV. Because the Reorganization Plan, as submitted, cannot be modified, this change will be sought through legislation which we will submit shortly.

I believe these changes are consistent with the basic intent of the ACTION organization. They recognize the concern expressed in both Senate hearings and those before your committee that the Associate Director for Domestic and Anti-Poverty programs is committed to the importance of anti-poverty activity in ACTION's program. I believe the organizational changes we have agreed to, give much stronger institutional recognition to this commitment. As we implement the plan, we intend to ascertain and take into account the views of the people served and the volunteers themselves as to shaping the programs, providing the appropriate organizational structure, and their ideas about key personnel, including the Associate Director for the domestic and anti-poverty component. The Associate Director, of course, will have the special experience and insight necessary to carry out the basic goal of this component which is to extend opportunities for volunteer service and to bring a wide range of volunteer groups to bear in a concerted attack on poverty-related problems.

I believe these changes represent a clearer definition of the Administration's commitment to the domestic program of ACTION, and a confirmation of our intent to support fully the use of volunteer resources in attacking the problems of poverty in local communities.

Sincerely,

GEORGE P. SHULTZ,
Director.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 22, 1971.

HON. CHET HOLIFIELD,
Chairman, House Government Operations
Committee, House of Representatives,
Washington, D.C.

DEAR MR. HOLIFIELD: You have asked whether we foresee any alteration in the manner in which future legislation dealing with the Peace Corps, VISTA, SCORE-ACE, the Retired Senior Volunteers Program, or the Foster Grandparents Programs, particularly authorizations for appropriations for these programs, will be handled by the various legislative committees of the Congress if Reorganization Plan No. 1 of 1971 becomes effective.

There is nothing in Reorganization Plan

No. 1 that would require any such change in the present jurisdiction of the various legislative committees.

Unless and until the Congress shall otherwise direct, the Peace Corps Act will remain a separate statute and we assume that future changes in that Act, including amendments to appropriations authorizations, will be considered by the Foreign Affairs Committee.

Furthermore, we assume that the Education and Labor Committee will continue to exercise comparable jurisdiction with respect to Title VIII of the Economic Opportunity Act of 1964, as amended (VISTA), and Title VI of the Older Americans Act of 1965, as amended (Retired Senior Volunteer Program and the Foster Grandparent Program), and that the Committee on Banking and Currency will continue to have jurisdiction with respect to the SCORE-ACE program, since that program is conducted under the provisions of the Small Business Act, as amended.

Sincerely,

ARNOLD R. WEBER,
Associate Director.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 22, 1971.

HON. CHET HOLIFIELD,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HOLIFIELD: Arnold Weber informs me that you have asked for some additional clarification of matters concerning ACTION, the agency proposed by Reorganization Plan No. 1 of 1971.

STATUTORY AUTHORITY

Under the Reorganization Plan, no changes in statutory authority which governs component programs can be made. ACTION's programs will be governed largely by the Economic Opportunity Act (which already provides both broad authority for the existing full-time volunteer program and additional authority for part-time and short-term programs, with all programs directed to the elimination of poverty) and the Peace Corps Act (which provides for establishment and operation of the Peace Corps). Additional authority for volunteer programs for older Americans and for assistance to small business exists in the Older Americans Act and the Small Business Act. Each of these Acts will continue to govern component programs. No major changes in these pieces of legislation are contemplated, and none, of course, could even be considered under the Reorganization Plan.

\$20 MILLION ADD-ON

The Administration has announced that it will seek \$20 million in additional money, to be used entirely for domestic programs. It has further announced that at least \$12 million of that \$20 million will be sought as an addition to the fiscal year 1972 budget for VISTA-type programs.

ACTION ORGANIZATION—VISTA

The table of organization presently being reviewed by your committee shows an Associate Director for Domestic Operations, with VISTA and Older Americans programs as part of the domestic operations, together with some administrative support functions for the SCORE-ACE programs of SBA. As indicated above, the domestic operations program will largely be governed by Title VIII of the Economic Opportunity Act, which is titled Volunteers in Service to America. The bulk of the domestic effort will be handled through the VISTA program, as shown by the additional funding commitment. The additional programs shown on the table of organization are the types of programs already authorized by the EOA and indicate the very close relationships which already exist between the VISTA program and those

being merged with it. It is possible, therefore, to view the domestic operations of ACTION as a marked expansion and upgrading of the VISTA program. The Associate Director, with this expanded capability for domestic programs which focus on community problem-solving, will, of course, report directly to the Director of Action.

CONTINUITY OF VISTA PROGRAMS

It is clear from the above that the Reorganization Plan and the additional funds will do a great deal to strengthen the VISTA program. Existing sponsors who will continue with the program in ACTION (and who presently are heavily involved in anti-poverty programming) can look forward to continuing relationships on an expanded and improved basis.

Sincerely,

GEORGE P. SHULTZ,
Director.

Mr. HORTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of Reorganization Plan No. 1, and, thus, in opposition to House Resolution 411, the effect of which is to disapprove the Reorganization Plan.

I think the most important thing that can be said for this plan, and for the Action agency it would create, is that it represents a sincere commitment to expanding opportunities for American people of all walks of life to make meaningful and personal contributions to the resolution of the social and economic problems that plague our Nation. The successful citizen-involvement or volunteer programs which have been fostered over the years in separate Government agencies have demonstrated that there is definitely a place in America for federally fostered and supported volunteer efforts. No one claims that we can solve all of our problems simply by assigning tens of thousands of volunteers to them, any more than we can solve them all by an endless myriad of federally funded nonvolunteer programs. There is definitely a role for both methods of approach. The purpose of the umbrella agency Action is to provide greater visibility, greater support, greater recruitment, and, in short, a greater commitment to volunteer programs which have already earned a place in the Federal family of domestic and international efforts. This reorganization is the logical next step in expanding the Federal commitment to effective citizen-involvement programs.

Current successful programs being transferred to Action will not be revolutionized or turned inside out. In most respects, these programs will operate as they do now.

Action will be an improved organizational base for fostering and supporting voluntary action. The new agency would work through existing programs as well as seek to develop innovative, new programs as authorized under existing legislation. No program will be discontinued or cut back as a result of the reorganization.

The purpose of the new agency is to foster and support volunteer activities by means of improved recruitment and administrative support to volunteers on

projects sponsored by Federal, other governmental, and private and community organizations. This means volunteers would continue to aid OEO projects in poverty communities, would continue to help Small Business Administration clients and would work closely with the Administration on Aging, because they would be assigned by Action to work with local projects and sponsors of these respective agencies, just as they are now.

Projects to which volunteers will be assigned will include nonprofit community organizations. Volunteers will continue to be under the direction of the project sponsors to whom they are assigned, with only general guidance coming from Action.

The programs transferred to Action, including VISTA, SCORE, ACE, Foster Grandparents, RSVP, OVA, and Peace Corps will continue to operate, Mr. Chairman, under existing rules and regulations, with the same operating procedures at the volunteer level, and with identities of their own. By this I mean that 1 year from now, for example, a businessman will be able to sign up with Action to work in a program sponsored by SCORE, a student will be able to sign up to work in a VISTA program, a senior citizen will be able to sign up for Foster Grandparents or one of the other programs for retired persons.

In addition to preserving these existing programs, along with their methods, purposes and procedures, Action, as an umbrella support agency, will enhance these programs, as well as voluntarism in general in ways that are not possible under existing structures.

A regional office structure will be created under Action to develop programs responsive to local needs, to support the activities of assigned volunteers, and to provide technical assistance to voluntary programs within the Federal regions. Today, the regional volunteer structure is splintered and coordination between programs is poor or nonexistent because each program reports through the regional offices of its own parent agency or department.

The changes and improvements in operation which will take place will therefore occur largely in the fostering and support of voluntarism. For instance, it will be possible to send a volunteer's application or request for information to one location and have it reach all relevant projects and programs. There will be greater flexibility and continuity in transferring a volunteer from one program to another—for example, from a full-time to a part-time program. Attention will be paid to setting appropriate standards for remuneration of volunteers. More resources will be spent on developing projects to meet local needs. Volunteer projects in an area can be more easily coordinated. Project referrals can be made from one program to another, just as proven program techniques can be transferred from one program to another far more readily than is the case today.

Better technical assistance can be provided to private volunteer projects and

groups: and it will be possible to undertake research, based on broad program experience, into devising new kinds of programs and program support in areas where citizen-involvement can be utilized to help solve problems.

The strength of the administration's commitment to carry out these improvements and to hammer home its commitment to citizen-involvement is evident in the proposed Action budget.

Under the reorganization plan, the President would be requesting \$141 million for voluntary action programs in fiscal 1972, as compared to the \$137 million appropriated for fiscal 1971. The fiscal 1972 budget includes \$20 million in new money being requested to support new initiatives for domestic volunteer programs.

It is likely that this total amount—\$141 million—will be further increased by a supplemental fiscal 1972 request for additional Peace Corps funds, which are needed because of a sharp rise in recruitment and placement.

Action is to be primarily committed to poverty-oriented functions, and if the plan were to take effect we could expect an increase, a major increase, in the resources committed to domestic poverty projects for fiscal 1972. Volunteers will continue to be assigned, as they are now, to local, nonprofit community organizations, and to other sponsors which meet VISTA program requirements.

VISTA would have a fiscal 1972 budget of at least \$45 million in contrast to the fiscal 1971 appropriation of \$36 million.

There would be an increase in the number of VISTA volunteers serving in poverty areas, particularly in the category of "community VISTA volunteers" under which persons from poverty neighborhoods and communities are trained and supported to work in their own areas.

In other words, Mr. Chairman, VISTA volunteers, like those in other programs, will be assigned to projects to which they are able to contribute and to which they feel committed.

I also think it would be useful to speak briefly about the proposed handling of the SCORE and ACE programs.

SCORE and ACE chapters and volunteers will remain independent, as they are now. SCORE and ACE volunteers will continue to work under the direction and guidance of SBA, with some specially defined administrative support from Action. The advantages to SCORE and ACE of the support they will receive as a result of this reorganization are as follows: First, an increased recruitment potential, particularly as it relates to the founding of new chapters in communities which do not yet have the advantage of these programs; and, second, Action will provide enhanced potential for business-counseling opportunities to be referred through SBA to SCORE and ACE from other Action programs, including VISTA.

It is understood that in order to provide these recruitment and referral supports to SCORE and ACE, Action will require considerably less than 20 percent of the current SCORE/ACE budget of

\$1.8 million. In other words, Action will utilize less than \$360,000 of this budget to provide these support services.

Like VISTA, SCORE, and ACE, the Peace Corps, Foster Grandparents, and RSVP programs will retain their identities within Action, as noted in the organization chart.

In summary, Mr. Chairman, the transferred programs will continue and expand under Action, and these programs will be augmented with innovative, new programs which will provide a full measure of support to the volunteer activities of our citizens.

As a member of the Select Committee on Small Business who has long observed and supported SCORE and ACE, as a Member of Congress who has, from the beginning, urged full support and expanded funding of VISTA and other antipoverty programs in OEO, as a founder of a task force in the 1960's to recommend expanded programs and services to our aged citizens, as a member of the subcommittee who attended nearly every moment of the 3 full days of hearings which were held on Reorganization Plan No. 1, and who asked many questions during those hearings. I am convinced that this plan represents a firm and a credible commitment to citizen involvement in America. I believe it is a plan which will help and augment all of its component programs and injure none of them.

Thus, Mr. Chairman, I urge our colleagues to cast negative votes on the pending resolution of disapproval, so that this concept, which represents an expansion of Federal support for voluntarism, can come into being, and so that, under the watchful eye of Congress and the Nation, it can carry out the commitments its founders have made for its implementation.

Mrs. DWYER, Mr. Chairman, I am in favor of Reorganization Plan No. 1, and thus opposed to House Resolution 411. Both the full Government Operations Committee and the Legislation and Military Operations Subcommittee, which held 3 days of hearings, gave bipartisan support to the reorganization plan and recommended against adoption of House Resolution 411.

I have been a supporter of the volunteer programs involved in Reorganization Plan No. 1 from their inception, and believe that this plan represents a desirable next step in the development of Federal support for volunteers. All of these programs, except RSVP which is new, have now gotten over their growing pains; they are proven and successful programs.

Yet, we find, because they are scattered, they do not provide the common support to each other that would be beneficial to the programs and to the volunteers. And they also are rather narrowly defined, again, except for RSVP, in their operations to single methods of operation. For instance, VISTA could be involved in many different types of volunteer programs under its authorization, but has largely limited its activity to full-time volunteers. If this plan is allowed to

take effect, we would have an agency capable of providing better support to the existing programs and capable of developing new programs.

I am intrigued by some of the possibilities for new programs. For instance, did the House know that the city of New York has an office of volunteers? That office performs many of the same functions of program development and support that we can expect from Action. Their programs consist of such groups as the addiction services agency, the urban league street academies, and the service corps of retired attorneys. I understand Los Angeles has a similar program. I would think that Action would be in a position to foster the development of other offices of volunteers throughout the Nation.

I also heard recently that Ralph Nader is planning to form an organization of attorneys across the country able to argue for the rights of the poor, in favor of better government, and so forth. Would not Action be able to work with Mr. Nader in establishing such an organization, and be able to work with it by referring cases? Action, I understand, will be able to provide technical assistance to private volunteer groups, and will attempt to serve as a clearinghouse for volunteer information and referrals.

Finally, let me call the attention of the House to a resolution adopted by a task force at the recent White House Conference on Youth:

The President should call for appropriations under existing Action corps legislation sufficient to provide training for approximately 200,000 volunteers and volunteer supervisors in order to test over a two-year period, the feasibility of greater Federal assistance to locally designed and administered programs of work study and service learning. There should be several projects during this period to test the ability of the projects to provide solutions to local problems such as delinquency, health services training and delivery, early childhood education or comparable needs. Further, we recommend that the Director of the Action corps undertake a program of research and evaluation to begin at the start of the above-mentioned two-year trial program on June 30, 1971, and submit his recommendations regarding the feasibility of expanded Federal support for work-study and service-learning programs by June 30, 1973.

There are so many ways in which Action could contribute to the development of new volunteer programs in this country, and I have mentioned just a few. We need to study and develop some of these ideas. This reorganization plan, I submit, is the right step at the right time. I do hope the House will support this plan and vote against House Resolution 411.

Mr. Chairman, I will be glad to yield 5 minutes to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON of New Jersey. Such time as he may consume?

Mr. HORTON. I do not want to yield all of the balance of my time. I will yield you 10 minutes, and if you want more, I will be glad to yield you more.

Mr. HOLIFIELD. Mr. Chairman, I will yield the gentleman from New Jersey 5 minutes. That will give him 15. If the

gentleman needs another 5 minutes, I will give it to him then.

Mr. THOMPSON of New Jersey. Will the gentleman from California yield?

Mr. HOLIFIELD. Certainly.

Mr. THOMPSON of New Jersey. In our colloquy before the adoption of the gentleman's resolution I understand it was specifically agreed that the opponents would get equal time.

Mr. HOLIFIELD. That is right.

Mr. THOMPSON of New Jersey. The gentleman from California used 22 minutes and the gentleman from New York used 11 minutes. Each of them has now yielded me 5 minutes.

Mr. HOLIFIELD. No; I yielded the gentleman 5 minutes and I understood the gentleman from New York yielded 10 minutes. Let us take 33 and divide it by 2, and we will give you the benefit of the doubt and make it 17 minutes.

Mr. THOMPSON of New Jersey. You know, I am not very, very good on this new math.

Mr. HOLIFIELD. The gentleman asked to get as much time as possible and we are endeavoring to extend that time to the gentleman.

Mr. THOMPSON of New Jersey. Well, I shall do the best I can.

First of all, Mr. Chairman, I would like to say that I am very grateful to the chairman of the Committee on Government Operations, an old and valued friend of mine, not only for his consideration today but for the opportunity which he gave me to appear before the committee; and my friend, the gentleman from New York (Mr. HORTON), whose friendship I value very highly. However, as much as I respect them, I am in really thorough disagreement with them on this issue and I shall try to explain why.

Now, Mr. Chairman, this is Reorganization Plan No. 1, designed to bring together under the auspices of a new agency to be created called Action several ongoing programs which now serve a variety of functions in the Federal Government and the administration proposes to label this new agency as Action.

Mr. Chairman, as the gentleman from California pointed out in describing the differences between this chart and the chart in the committee report, the gentleman explained that further action—if I may use the pun—will be required in the form of legislation at some subsequent date. In other words, that the report which you have before you is not an accurate reflection of what is intended.

The programs to be brought under this proposal are Volunteers in Service to America—VISTA—from the Office of Economic Opportunity; the Foster Grandparents program, which, parenthetically, is not a voluntary program but indeed an employment program; the Service Corps of Retired Executives, commonly known as SCORE; the Action Corps of Executives are now executives with the Small Business Administration; the auxiliary and special voluntary programs in OEO.

We are advised that the administration proposes to bring in by Executive order the Peace Corps should the Congress approve this; and, of course, should the Congress approve this, and only should the Congress approve this. Later the gentleman from California explains to us separate legislation will be brought in to bring the Teacher Corps into this tent.

Mr. Chairman, the Reorganization Act of 1949 authorizes the President to submit plans to transfer, to consolidate or to abolish Federal executive agencies and functions. Such plans become law unless within 60 days after the submission of them the House or the other body passes a resolution of disapproval. That is what we have before us today and I urge a vote of "aye" on the resolution of disapproval.

The act requires that the reorganization plans meet at least one of six criteria: to promote the better execution of the laws and more effective management of the executive department; to reduce expenditures—and the gentleman from New York says there will be an additional \$20 million for VISTA-like activities without specifying them because the gentleman cannot, and the reason why he cannot is because the plans are yet to be formulated or yet to be known or identified; to increase the efficiency of the Government—and, certainly, this cannot qualify under that by any standard, taking all these activities and putting them in one tent and yet running out from under the tent the tentacles back to the legislative committees which at this moment have the responsibility for them; to coordinate this function toward achieving the major purpose, and there is no major purpose stated here; to reduce overlapping agencies, there is no overlapping in any of these agencies.

And to eliminate duplication of effort. And there is none of that. The only effort that is being made is to somehow or other sell us this Action program.

The remarkable thing about the plan is that none of the criteria will be met. There is no credible evidence that this plan will promote efficiency and economy much less expedite the public's business. In this regard I commend the attention of our colleagues to the minority views signed by 11 members of the Committee on Government Operations who voted against the legislation.

On the surface it would appear that the only rationale for the merger would be to bring together all programs that have a common theme called "volunteerism" notwithstanding that the Foster Grandparents is not a volunteer program. But even this rationale will not stand inspection.

The proposed reorganization is against the recommendations of the Ash Council that agencies be grouped by functions. The programs to be thrust together under this plan range from the business oriented corps of retired executives to a program designed to aid the war on poverty. In fact, our distinguished colleague, the gentleman from Kentucky (Mr. PERKINS), the chairman of the Com-

mittee on Education and Labor, stated before the Committee on Government Operations that the Foster Grandparents is not a volunteer program at all. Those who participate in it under the law must receive at least the minimum wage. Furthermore, the plan calls for the administration of SCORE to be shared by the Small Business Administration and Action. Now, is this efficiency? There will be confused lines of authority and creation of duplication of effort. And this is not even complete, this hydra-headed thing here.

There is one remarkable thing to be said about it, though, it seems in one stroke to have solved the generation gap. It is strongly opposed by both the retired executives of SCORE and by the young volunteers in the VISTA program with nothing in the middle.

The proposal, I submit, is born in confusion and is being placed before this House amid considerable dissension within the administration itself. There is no clear indication of what the role of this new umbrella Action would be, and the economics of the proposal are vague to say the least.

The administration advises that it will seek an additional \$20 million for the new agency. This is not economy, although, indeed, if these things were offered separately, I, for one, would vote for many more dollars for each and every one of the programs, but this assurance is rendered meaningless by the fact that the funding request of the constituent programs in fiscal 1972 are lower than they are for 1971.

Now you figure this one out. I defy anyone to understand this. It is going to promote efficiency in government. I have heard of talking out of both sides of one's mouth at the same time, but never out of both sides, and the middle.

It is going to promote efficiency. It is going to be economical. They are going to add \$20 million more, yet the fiscal 1972 request is \$14 million less. And we are being asked to buy this absurd arithmetic.

So if they give us the \$20 million, which the administration says it will request for Action, it barely compensates for the difference in the request between last year's budget and this year's budget.

In short, there is grave doubt that the constituent programs would be better off financially as the result of the reorganization. I feel that the real result of this proposal would be to diminish, if not eliminate, the effectiveness of the constituent programs thrown together like apples and oranges into a basket of programs. They would lose their identity and their force. Some of us here, Members of this body, would like to see them lose their identity and lose their force, others would like to see them remain visible, viable and identifiable at all times, not under Action as the administrative agency and then back into the committee or the respective committees for the legislative action to where they are now.

Our distinguished colleague, the gentleman from Tennessee, chairman of the Committee on Small Business, expressed

this fear in a letter to the chairman of the Committee on Government Operations. He advised that he had strong objections to the proposed transfer of the Service Corps of Retired Executives and Action corps executives into the new agency.

In the same vein, the distinguished gentleman from Texas (Mr. PATMAN), chairman of the Committee on Banking and Currency, advised the Committee on Government Operations that it appeared this reorganization would not provide any new benefits for small businessmen and he advised that SCORE and ACE not be included in the organization.

I think it appropriate to remind our colleagues that this plan must stand or fall as it is before us, without reference to future legislation and without reference to the fact that if this passes, then the Peace Corps will be brought in—and then if it passes, subsequent legislation will be brought in to take the Teachers Corps into it—and then if this passes, there will be a hydra-headed monster created by legislation as to how it is to be structured.

The proposal purports to advance the cause of volunteers in some unidentified way. Obviously, now "volunteers" is a safe word. But where are the volunteers to support it? The implication is that if someone wants to volunteer, he can be in Peace Corps, SCORE, ACE, VISTA, Foster Grandparents or any other of the number of other things that they may create with "VISTA-like programs" on which they propose to spend an additional \$20 million.

What person or group of any stature has come to us on behalf of this reorganization? The most formidable name that I have heard up to now is that of the former Secretary John Gardner, now head of Common Cause. Oddly enough, although he claims to have advocated this, and no doubt he did, he was not able to sell it nor did he even in fact suggest it publicly.

Oddly enough, the administration over the last 2 years has been clearly in one instance anti-VISTA.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the distinguished gentleman.

Mr. PERKINS. First, let me compliment the distinguished gentleman from New Jersey (Mr. THOMPSON) for his outstanding statement.

I would like to ask the gentleman from New Jersey if he agrees that this Reorganization Plan No. 1 is more or less the initial step on the part of the administration to eliminate the Office of Economic Opportunity.

Mr. THOMPSON of New Jersey. In response to my distinguished colleague, the gentleman from Kentucky, it is not an initial step "more or less"—it is one step "more"—and very clearly so.

Mr. PERKINS. The gentleman has pointed out that some of these programs like Foster Grandparents and VISTA are primarily directed at helping the poor. They are not related in anyway to ACE or to SCORE and have no place with

such programs that are designed to assist the development of small business. I want to compliment the gentleman from New Jersey for bringing out the point that many of these programs are absolutely unrelated.

Mr. THOMPSON of New Jersey. I thank the gentleman.

Mr. Chairman, some evidence of the attitude is evident in a May 24 New York Times article in which an unnamed Republican official was quoted as saying that:

VISTA is just a federally financed \$36 million-a-year hate Nixon graduate school. What would you do with it if you were — he says.

I think that is a rather expensive hate Nixon graduate school. As a matter of fact, I do not hate President Nixon at all. I do not agree with him 99 percent of the time.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. HOLFELD. Mr. Chairman, I yield the gentleman from New Jersey 5 additional minutes.

Mr. Chairman, there has been considerable dissension within the administration itself as to what shape the new agency would take. The main split, according to a long and thoughtful analysis in the National Journal, was between the Peace Corps and VISTA, with the Peace Corps dominating, largely through Mr. Blatchford's influence. The result of the dissent has been that the administration has sent up to Congress the mere skeleton of a plan to be implemented largely at the whim of the proposed Director of this thing called Action. The vagueness caused more reaction than the administration expected, and thus we have received some details in the form of "quickie" responses to congressional inquiries.

Only when I pressed did the administration make specific recommendations regarding the funding program for Action, and even now they are not clear. They are not in the President's message, nor are a multitude of letters of assurance from former Secretary Shultz and others a part of the record. They are not at all, as a matter of fact. So what we are being asked to do is to take existing programs with which we may agree or not agree, which we may support or may not, in sum or all, put them all under this thing called Action, and then hope that the administration will clarify their intent, their purposes, and their activities later.

With respect to Mr. Blatchford, I might say that he was kind enough to visit my office. He spent quite a while with me, and I asked him what his plans were. They are very lofty and they are very fine, I think, except that even he cannot define them. He does not yet know what will be done with the \$20 million more that he is going to spend for VISTA-like programs. What does he mean by them? He does not know.

Mr. Chairman, I submit that there has not been, with all due respect to its proponents, a case made which should lead us to take this as it is now without ex-

plaining it and adopting it. It should be defeated, and if these matters are to be achieved, they should be achieved legislatively, because they do not meet any of the six criteria under the Reorganization Act. Let them go to the respective committees. Let the Committee on Foreign Affairs—and the chairman of that committee is opposed to this—let the chairman of the Committee on Foreign Affairs call this committee together, examine the future, the usefulness of the Peace Corps, and treat it accordingly. Let VISTA and the other programs belonging to the Committee on Education and Labor be sent legislatively to that committee for its determination. Let the Committee on Banking and Currency make its determination as to the activities for which it is responsible. Let the Small Business Committee take similar action.

The fact is that the proponents will admit that in defense of this proposal, the administration has said there will not be any change. We will put the Peace Corps in this bed, but the Committee on Foreign Affairs will have jurisdiction over it. We will put VISTA in this bed, but the Committee on Education and Labor will have jurisdiction over it. And so on it goes. I do not think the case has been made for the plan.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I am delighted to yield to the gentleman from California.

Mr. HOLIFIELD. Of course, what the gentleman has said is true, I might say, of all reorganization plans. A reorganization plan cannot change the statutory jurisdiction of a committee of Congress. All of the many plans that we have handled have been subject to this same factor. I would think the gentleman would be pleased that the VISTA organization, the VISTA hearings, and so forth, would be before his committee, and that the Peace Corps would continue to be before the Foreign Affairs Committee.

I should think he would be pleased with that fact because it would give the committee control over the amount of money to be authorized.

Mr. THOMPSON of New Jersey. If the Committee on Education and Labor is to have complete control over the amount of money authorized, then why in heaven's name has not the administration requested of the Committee on Education and Labor an additional \$20 million with which to expand it?

If we are going to take the legislative route, let us take the pure legislative route. Let them go to the respective committees and ask those responsible committees, rather than walk in the back door, create this monster, and then come back to us and say, "Sustain it. Feed it."

Mr. HOLIFIELD. If the gentleman will yield further, I can say only that the administration said it will ask \$20 million and it is said \$12 million of that will be given to VISTA.

Mr. THOMPSON of New Jersey. It has not said that, I respectfully submit. It

says, "For VISTA-like programs"—VISTA-like.

Mr. HOLIFIELD. The testimony before our committee by Mr. Weber was that a substantial part of the \$20 million would be given to the VISTA program. When questioned closely, he estimated it would be about \$12 million.

Mr. THOMPSON of New Jersey. I have in my possession, Mr. Chairman, a copy of a letter written to one of my most distinguished colleagues by Mr. Weber in which he characterizes it as "VISTA-like," not VISTA.

Let me say this with respect to the letters of assurance: Look at the record of this administration in keeping its promises. The fate of the Job Corps ought to be instructive.

The administration promised, when Mr. Schultz was the Secretary of Labor, that 30 new intercity Job Corps camps would be opened, that \$420 million would be spent for jobs in the business sector program, and that the scope of the program would be significantly expanded. Since then the administration action has been to close 50 of the 106 centers, to open only nine of the 50 promised ones, and to slash the Job Corps budget from \$282 million to \$170 million.

The essence of what I am saying is not that these people who write these letters are not honorable men, because indeed they are all honorable men; but I simply do not trust them to be able to fulfill their promises.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from New York.

Mr. ROSENTHAL. I do want to correct the record. One of the proponents of this plan, an administration witness, has suggested that the Peace Corps would stay responsible to the Committee on Foreign Affairs. I raised that question in the course of a dialog. No one can say that the action program of the Peace Corps would be responsible to the Committee on Foreign Affairs. My own judgment is that the Committee on Foreign Affairs would lose jurisdiction over the international operations.

Mr. THOMPSON of New Jersey. All of this is in an exchange of letters between administration people and anyone who writes to them. Apparently they undertake to answer in such a way as will please such individual who writes.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield me an additional 2 minutes?

Mr. HOLIFIELD. Mr. Chairman, I yield the gentleman an additional 2 minutes.

Mr. THOMPSON of New Jersey. I might say to the gentleman from New York that one letter from the Executive Office of Management to Chairman Holifield says:

Unless and until the Congress shall otherwise direct, the Peace Corps Act will remain a separate statute and we assume that future changes in that Act, including amendments to appropriations authorizations, will be

considered by the Foreign Affairs Committee.

But that is not in this plan.

Mr. ROSENTHAL. That does not mean it will.

Mr. THOMPSON of New Jersey. Does this mean anything?

Furthermore, we assume that the Education and Labor Committee will continue to exercise comparable jurisdiction with respect to title VIII.

Is that reorganization?

Mr. ROSENTHAL. How can they assume that? They have no way of knowing.

Mr. THOMPSON of New Jersey. Are they correct in assuming further? They say:

The Older Americans Act of 1965, as amended, (Retired Senior Volunteer Program and the Foster Grandparents Program) and others will continue under the Education and Labor Committee.

Mr. ROSENTHAL. They simply have no right to speculate in that fashion.

Mr. THOMPSON of New Jersey. Of course they do not. This is why I say of them as individuals they are very honorable people, but they cannot deliver, and they have not, in their report, in the President's message, in their testimony, or anyplace else but in private letters to Members given such ridiculous assurances.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield me an additional 2 minutes?

Mr. HOLIFIELD. Mr. Chairman, I yield the gentleman an additional 2 minutes.

Mr. ZABLOCKI. Will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Perhaps the gentleman can clarify for the gentleman from Wisconsin the cost involved. The section-by-section analysis which appears on page 5 states that there will be at executive level III a Director at \$40,000 a year, a Deputy Director at level IV at \$38,000, and four Associate Directors at \$36,000, and from the presentations thus far the directors of the various programs, VISTA, SCORE, ACE, Foster Grandparent, and others and presumably the Peace Corps, when some future legislation should the Peace Corps and the Teachers Service Corps, the administrators of these programs would remain. How many more personnel would Action really involve? What would be the additional number to all of the organization charts that we see here—Which, by the way, are most confusing.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HORTON. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. THOMPSON of New Jersey. I say in answer to the gentleman that is absolutely so. I have in my possession the present names and occupations of those being interviewed for the new positions. Some of the descriptions of them are

beautiful. For instance, one man is characterized as "a sharp black educator." Another one is with Canada Dry Corp. Another one is with International Business Machines. Another one is with Giftware Corp., another is a banker, and another is yet another business executive. A number of them are characterized as—and Lord only knows what this means—as "sharp black." However, there are a number of them in that category. They are all new personnel. You cannot tell. It defies description and defies analysis. I cannot answer the gentleman's question as to cost, but I can answer—

Mr. ZABLOCKI. The gentleman will agree, we are authorizing a blank check?

Mr. THOMPSON of New Jersey. You certainly are.

I would like to say, whether or not you like the present programs, if you like them, you can support them as they now exist much more readily than under this plan. If you do not like them, you can oppose them much more readily and more visibly, because they will remain separate.

Mr. ZABLOCKI. If the gentleman will yield further, I want to commend the gentleman from New Jersey for bringing this matter to the attention of the Committee and enlightening us on all the aspects of this program. I am certainly going to join the gentleman and vote aye.

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PERKINS. Mr. Chairman, in reorganization Plan No. 1 the administration proposes to consolidate a number of so-called voluntary action programs. Four of the six programs directly affected by the reorganization plan are within the jurisdiction of the Committee on Education and Labor.

Because of my interest in these programs and my experience with them, I want to convey to my colleagues my concern about the impact of the proposed reorganization on those authorizations and to advise the Members of this House of my strong opposition to implementation of the plan.

Before going any further I want to make one thing very clear. I subscribe very strongly to the belief that the President should have maximum possible flexibility and authority to organize the executive branch of our Government. He needs flexible authority in order to most effectively carry out the functions of the executive branch. The Reorganization Act was passed in 1949 to facilitate the reorganization of the executive branch of Government by the President. I have always been most reluctant to oppose a reorganization plan for that reason. The people of this Nation elect the President as Chief Executive. They can and should hold him responsible for the running of the Government. In spite of my natural reluctance, however, I feel compelled to oppose the Reorganization Plan No. 1. I do so because it is part of fundamental policy changes which the administration is undertaking which I feel the Congress must resist.

For each of the programs affected by the proposed reorganization, there are a number of valid and persuasive reasons for opposing the merger. Let me give you one example. The Foster Grandparents program is not a volunteer program. The elderly poor are paid at the minimum Federal wage in most facilities and in some, above the minimum wage. The purpose of the program is to provide employment opportunities for low-income persons, aged 60 or over, so that they may render supportive person-to-person services in health, education, welfare and related services to children having exceptional needs.

Mr. Chairman, if the purpose of the reorganization plan is to bring together voluntary action programs, then it seems to me that the Foster Grandparents program does not qualify.

I will not go further in discussing the problems and concerns which I see as programs are examined on an individual basis, as I know there are other Members who will do this. Rather, I want to spend just a few moments explaining the very adverse effects the proposed reorganization will have on the agencies which are now responsible for the administration of the affected programs.

In this regard let us return to the Foster Grandparents program and consider what the transfer of this program will mean. In establishing the Administration on Aging, the Congress intended that the agency would provide our older population with meaningful representation in the upper echelons of the Federal Government. The Administration on Aging was to be an agency which could devote full attention to the development of solutions to the many social and economic problems facing the elderly. It was intended to be the focal point for the older persons of this Nation within the Federal Government.

Largely because of totally inadequate funding of most of the programs authorized by the Older Americans Act, the Foster Grandparents program stands out as the most successful and beneficial of the programs administered by the agency. In my judgment, to deprive that agency of its most successful program will seriously hamper and impede the development of the agency into the high level agency of power and responsibility which was intended by the Congress.

A second program—the retired senior volunteer program—which is also administered by the Administration on Aging, is part of the reorganization plan. To take this program away from the Administration on Aging constitutes yet another step away from the elderly—their needs and problems—in search of an objective which in my judgment is of a much lesser priority.

The Economic Opportunity Act of 1964 was a commitment of this Nation to eliminate poverty.

I would not have it said that this Congress was willing, so easily as this administration appears to believe, to forget that commitment to end poverty in this, the wealthiest of all nations.

Reorganization Plan No. 1 is but one part of the administration's announced

plan to eliminate the Office of Economic Opportunity—the focal point, the command post, of this Nation's efforts against poverty. The administration's announced intention is to transfer all operating functions of that agency to other branches, departments, or agencies of the Federal Government, just as it now proposes to transfer VISTA to the new Action Agency. As Headstart, the Neighborhood Youth Corps, Mainstream, New Careers, the Migrant, Indian, and other programs are severed from the Office of Economic Opportunity. The only thing that will be left is the research and demonstration element of that agency.

Mr. Chairman, that would be tragic. We cannot permit the destruction of OEO. We cannot permit the individual steps to be taken which would mean the eventual destruction of OEO by this administration without their having ever explicitly admitted that they are bringing the war on poverty to an end.

Mr. Chairman, I submit that this Reorganization Plan No. 1 is entirely erroneous. The President announced that it was his intention to organize the executive branch of the Government around basic goals. In this instance, taking VISTA out of OEO and putting it in Action together with other purposes of Reorganization Plan No. 1, is not an organization around goals but an organization around means. He would force together a variety of programs with entirely unrelated goals, ends, and purposes and I predict would create an agency which would effectively perform none of the purposes of any of them.

It makes absolutely no sense to tie the VISTA Volunteer, who works in poverty to help the poor, and the Foster Grandparents program, designed to provide opportunities for the elderly poor to help children, especially institutionalized and needy children—with the Service Corps for Retired Executives—SCORE—and the Action Corps of Executives—ACE—both of which are designed to provide opportunities for businessmen to assist in the development of small businesses, the former using retired businessmen and the latter using active businessmen.

The purposes of these agencies are entirely unrelated. SCORE and ACE are perhaps closer in some respects to the Retired Senior Volunteer program which provides opportunities for retired persons to provide services to their communities. None of the latter three, however, is at all related to the purposes of VISTA or Foster Grandparents, and none of these—I suggest—are really related either in the type of personnel that are to be used, or the purposes for which they would give their time to either VISTA or Foster Grandparents; and none of the five that I have mentioned, I suspect, are sufficiently related to the Peace Corps to make rational the merging of them with that program.

It is claimed that the reorganization plan would result in more efficient operation by the Government. I suspect that means less money will be provided in the budget. If that is the real purpose of the administration, that purpose can be more

honestly and effectively accomplished through the budget process.

Finally, Mr. Chairman, I wish to comment on a matter which is not immediately involved in the reorganization plan but which is very much part of the President's overall proposal. In his message, the President states that he will submit, in separate legislation, proposals to transfer the functions of the Teacher Corps from the Department of Health, Education, and Welfare to the new agency. We do not have the legislation itself so that I am reluctant to comment, but speaking for myself and I believe for many members of the Committee on Education and Labor, I can predict there will be very strong opposition to transferring the Teacher Corps from the U.S. Office of Education.

Let me share with you the statement of purpose from the Teacher Corps legislation itself and I believe you will see why this will be the case:

Sec. 511. (a) The purpose of this subpart is to strengthen the educational opportunities available to children in areas having concentrations of low-income families and to encourage colleges and universities to broaden their programs of teacher participation by—

(1) attracting and training qualified teachers who will be made available to local educational agencies for teaching in such areas; and

(2) attracting and training inexperienced teacher-interns who will be made available for teaching and inservice training to local educational agencies in such areas in teams by an experienced teacher.

In April of 1970, a third clause was added to the statement of purpose, indicating that it was also a function of the Teacher Corps to attract volunteers to serve as part-time tutors in schools serving high proportions of disadvantaged children. There is therefore some aspect—a rather small aspect in my judgment—of the Teacher Corps relating to "volunteers." But I wish to point out that this new addition to the Teacher Corps is secondary to the main purpose and thrust of the program—that is to strengthen educational opportunities for disadvantaged children and to encourage improvement in teacher education.

The record shows that the program has succeeded well in meeting these objectives, and a large part of that success is due to the fact that the Corps is being administered by an agency whose purpose and objective is to strengthen American education rather than an agency concerned with only the recruitment of volunteers.

It is pertinent, I think, to add this comment, Mr. Chairman, before closing, because I did not want anyone to expect that there will be unanimity on the Teacher Corps legislation when it comes to the Congress for consideration.

In closing I would ask all my colleagues to support my resolution. This Congress cannot, as the administration apparently wants to do, abandon the commitments made to the poor and to the elderly.

Mr. HOLIFIELD. Mr. Chairman, will the Chair inform us of the amount of

time that was used by the gentleman from New Jersey?

The CHAIRMAN. The gentleman from New Jersey consumed 27 minutes.

Mr. HOLIFIELD. Mr. Chairman, I yield 15 minutes to the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. Mr. Chairman, I have been a member of the Committee on Government Operations for 8 years now and have taken the matter of reorganization plans very seriously and spent a great deal of time and attention on the subject of Government reorganization.

There is nothing really sacrosanct about a reorganization plan. Since the Reorganization Act was passed 20 plans have been rejected of about 90 that have been submitted.

My own personal view is that there is a presumption in favor of a reorganization plan, because I think that the President ought to exercise responsibility for management and the affairs of the administration. The other side of the coin is that I think the proponents of the plan, that is, the administration, have the burden of proof in proving that the plan will meet one of the six criteria established in the Reorganization Act and that it will essentially afford efficiencies and economies in the carrying out of the functions of government.

On page 7 of the committee report, in the next to the last paragraph, the committee says on balance they, meaning the questions about the plan, are not of the magnitude that such a drastic step—rejection of the plan—should be taken.

Mr. Chairman, the committee report further says:

In such case the benefit of the doubt should go to the President.

I do not agree with that proposition. I do not think that the benefit of the doubt should go to the President, but I do think the benefit of the doubt should go to this Congress and to these agencies in order that they may continue their operations. Thus, it becomes initially the responsibility of the Congress and more particularly the responsibility of the Committee on Government Operations, which held very extensive, exhaustive, and important hearings to evaluate the testimony and determine whether or not the burden of proof was met. I can only tell you, from my own personal view, that, when these hearings began, I had no position on this reorganization plan. I was inclined to go along with the past history of the presumption of doubt being in favor of the President. However, after the presentation was made on the part of the proponents of the plan, I finally convinced myself that the plan ought to be turned down and that the proponents of the plan had not met the burden of proof.

What, in fact, happened during the course of these hearings was a kind of incredible thing. It seemed to me somewhat like a Charlie Chaplin silent movie with the music being provided by the piano player in the corner. The President submitted a plan and, during the

course of the mellowing of the plan here in Congress, a number of VISTA people obtained a copy of a galley proof that covered that portion of the OEO budget for this year. It contained the following language:

Volunteers in Service to America VISTA program is being phased out during 1971 and will not be renewed. Volunteers have not proven effective in raising the incomes of the poor and generally have left little visible lasting impact on poor communities. Obligations displayed permit the orderly elimination of the program.

The VISTA people released that to the press and the story appeared in the press, and the piano playing started. I could see the Charlie Chaplin people running back and forth across the scene. The administration said, "that is not true. We never intended to eliminate VISTA or to discredit its operations."

In my opinion the proponents of the plan had obviously failed to meet the burden of proof. So I took a closer look at this plan, and realized that these people are not being very forthright with us.

Then, next, we obtained by way of these same young people who vigorously oppose this program the entire text of a memorandum written by Mr. John Wilson, Director of Program Review and Evaluation, OEO, concerning the subject of OEO budget cuts of 1972. It says as follows:

If VISTA were terminated, the total additional request would only be \$54 million. Yet I do not think the agency can politically eliminate this program. The program would have to be terminated in the context of a much broader governmental reorganization.

Then, Mr. Chairman, again, the credibility of the administration was put into question. What did the piano player do then? He started playing and the proponents of this reorganization plan started moving across the screen at an even more hectic pace.

The next day a letter is delivered to my distinguished colleague, the gentleman from New York (Mr. HORTON) by Mr. Shultz affirming that they would leave VISTA intact in its full efforts and thrust. And additionally that they would put \$20 million into Action with a major portion of it going into VISTA-oriented, VISTA-like programs.

Again, Mr. Chairman, I had to take a step back and evaluate the credibility of the administration because twice they were challenged on very sensitive issues but failed to respond in the proper fashion but responded in a sense of incredible urgency and excitement.

The third act in the Charlie Chaplin comedy was only in the last few days when the committee of the other body, our sister Committee on Government Operations, questioned the structure of VISTA. My colleague, the distinguished Senator from New York, was negotiating with Mr. Shultz. And, alas, another letter came into being. That letter said, and I really mean this now, Shultz said in words or substance:

We really did not mean what we said when we described the first chart that appears in the committee report. We really did not mean what we said when we described the second chart that is now on the floor of the House of Representatives. What we really mean is something that is going to happen in the future.

And so, for the third time, the firebell was rung, and for the third time, the fire engine screamed across the Charlie Chaplin scenario, and for the third time, their credibility was substantially damaged.

Now, when the proponents have the burden of meeting this question of proof, they also have the burden of establishing their credibility. In my judgment they have lost their credibility in support of this plan. Thus it almost became unnecessary for me to even question the substance of the reorganization plan. Once you have washed out a witness, you almost have the authority, if not the right, to discount all of his other testimony.

Nonetheless, I began to look at the substance of the plan.

Well, the Ash Council, which President Nixon appointed to survey our governmental structure and reorganization, said that the one thing you want to take into account when you are developing a reorganization plan is the function of the agencies and bodies that are going to be included in the plan.

So we asked the proponents of the plan, Mr. Weber, Mr. Carlucci, Mr. Blatchford, and Mrs. Khosrovi, and others as to what are the real functions that appear in this plan, and, believe it or not, the outstanding theme, the lowest common denominator of function—and I put that in quotations—was "volunteerism." They implied that there was a new moral concept in America called "volunteerism." And what we ought to do is put all the people who want to volunteer into one agency, notwithstanding that their functions are unrelated and their purposes are unrelated.

I began to wonder aloud if we ought not to include the Marine Corps, which is a volunteer agency for the most part and that if we get into a volunteer armed force whether we should not include that volunteer armed force in Action.

Mr. Blatchford backed away from that suggestion saying that he had no real experience in the field of military affairs. Mr. Carlucci, who had been a foreign service officer of distinction, having served in the Congo and elsewhere, said that he did not see any real relevant factor to that. But Mr. Kurzman, who was with HEW and is Assistant Secretary for Legislation said incredibly enough, and it is in the record, that volunteerism is a function.

Now what these people fail to realize is that the volunteerism of the Red Cross lady or the cancer care lady doing their duties is an entirely different concept than the volunteerism of a person who wants to work in the ghettos helping uplift the poor, or that of the person who asks to work in the field of illiteracy and it is an entirely different concept than the volunteerism of the person

who wants to go overseas. And what they did is take four components of volunteerism and one component of \$1.60 an hour and lumped them in a new agency. So, here you have the chips on the board: First, their credibility has been destroyed; second, their substance; they have not followed the thrust or the measure of the Reorganization Act of including functions that ought to be put together; and third, they want to destroy the very programs that this Congress has passed.

If you take VISTA out of OEO and eliminate the cross-fertilization between these component elements, then you will have destroyed OEO, the parent organizing agency and you have destroyed VISTA with it. The mission of VISTA is to help the poor, it is not help the businessmen as SCORE has tried to do. What you are doing is to make a conglomerate of a number of programs of great integrity when they stand alone, and you are muddling up their purposes.

In this week's Time magazine, you can see an ad for the Peace Corps seeking young people who want to volunteer to go overseas. They want to make their contribution to society overseas. They have made that choice. I do not want to eliminate that choice for them. I do not want them to go to one of the recruiting offices and have a recruiting officer say, "You go to ACE." "You go to SCORE." "You go to VISTA." "You go to the Peace Corps." And "You are too young for the Foster Grandparents." I want people to be able to serve where they think they can make the most significant contribution. I do not want to see programs that have had the serious consideration of this Congress be destroyed.

Let me read to you one of the things that convinced me about this. I received a letter from a young man whom I never met before and still have not met. This letter was from William M. Kinzie, 908 North 12th Street, Richmond, Ind. This letter is addressed to me and he says:

RICHMOND, IND.,
April 27, 1971.

HON. BEN ROSENTHAL,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ROSENTHAL: I am a Vista Volunteer here in Richmond, Indiana and most strongly oppose the proposed "Action Corps". Because I care so deeply about Mr. Nixon's reorganization plan—in which VISTA will assume the characteristic of a service oriented agency as opposed to an activist and organizing agency, its present status—I am enclosing a memorandum of the reasons why the merger is ill-advised, being drawn up by the Vista Volunteers here in Richmond. We've decided to consult people we feel can be influential in stopping this merger and feel you are such a person.

Let me state that I feel the little effectiveness VISTA presently has will be completely abolished should the proposed merger go through. Many people here in Richmond depend upon Vistas for help—not to mention the help the other more than 4,300 volunteers across this nation render—and should the "Action Corps" become law, any help poor people once were able to obtain through Vista Volunteers would be lost. As my roommate so aptly put it, the merger, totally revamping the current stress of organizing that VISTA maintains, would be as

about as effective a poverty fighting agency as the boy scouts. With this in mind, and being fully aware of your leanings toward constructive and sympathetic causes, we volunteers of Richmond and of the country are confident that you will do your best to defeat the proposed merger. Following is the detailed memorandum describing why we volunteers feel the reorganization plan is harmful.

Sincerely,

WILLIAM M. KINZIE.

All of the component groups with one or two narrow basic exceptions testified in opposition.

The Senior Citizens Businessmen said that they did not want to work for a two-headed monster, both Action and small business.

The young people almost unanimously said that the viability of VISTA would be undermined in this.

My own parochial view and as an interested member of the Committee on Foreign Affairs is that the Peace Corps is an important foreign affairs component and I honestly believe that for the Committee on Foreign Affairs to lose their opportunity to invest itself with the interest of young people who want to serve overseas would be demeaning to the House of Representatives and to the committee.

Mr. Chairman, I urge my colleagues very sincerely as one who sat through all of these hearings and who has paid a good deal of attention and who has voted against only one reorganization plan in 9½ years of service in this Congress to vote "aye" and reject this plan.

Mr. HORTON. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. ERLNBORN).

(Mrs. DWYER (at the request of Mr. HORTON) to extend her remarks immediately following Mr. HORTON.)

Mr. ERLNBORN. Mr. Chairman, I find it a bit difficult to follow the gentleman who was just in the well because I do not have either a piano or any fire sirens to play along with my remarks. Maybe I ought to keep this a little more in low key.

Also, I was quite interested in what the gentleman had to say. He began his discourse by saying that there should be a presumption in favor of a Presidential reorganization plan, and then he went on to say that the administration has the burden of proof.

It seems to me the gentleman speaks with a forked tongue. It must be one or the other. The presumption is in favor of the plan, or the burden of proof is on the administration. You cannot have it both ways.

I do want to compliment the gentleman from California (Mr. HOLFELD), the chairman of our full committee and the chairman of our subcommittee, as well as the ranking Republican member of our subcommittee, the gentleman from New York (Mr. HORTON), on their presentations. I think that they have amply defined what the reorganization plan will do, and they have done so in detail, quite sufficient, I think, for the purpose of this debate.

I think it also is important to note that

we have fine traditional bipartisan support for this Presidential reorganization plan and an unusual partisan opposition. I say "fine traditional bipartisan support," remembering that for approximately 6 years I was the ranking member of the subcommittee that received all of the Presidential reorganization plans. I did not support them all, but the majority of them were supported on a bipartisan basis.

I remember joining with the gentleman from California in support of the plan sent up by President Johnson to reorganize the Government of the District of Columbia. This had bipartisan support and bipartisan opposition, and in a close vote the plan was approved. In a bipartisan way we did give the District of Columbia a new governmental structure somewhat more akin to home rule than what they had had in the past.

I think we also find the opponents of this plan cast in an unusual role. The defenders of the status quo now become the gentleman from New Jersey (Mr. THOMPSON) and the gentleman from New York (Mr. ROSENTHAL).

I was also surprised to find in the hearings that the type of person that was volunteering for VISTA, to go out and help change the status quo in the poverty areas around the country, were the first to come and try to protect the status quo in their organization, and I pointed this out to them. If they did give a dispassionate look at the thrust of this whole program, the opportunity to have better recruitment, the opportunity for better management, and the President's request for additional funds in the poverty areas around this country, their immediate reaction should be support. And yet this protection of the status quo seems to have generated opposition from some who have served in the VISTA program.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. ERLÉNBERN. I am happy to yield to the distinguished chairman, the gentleman from California.

Mr. HOLIFIELD. I should like to point out the colloquy in the hearings on the \$20 million. On page 56 of the hearings, Mr. BROWN of Ohio, in questioning Mr. Weber, said:

Mr. BROWN. So you are talking about last year \$36 million, this year assured, if the Congress approves it, \$33 million for the domestic branch, plus another \$20 million which goes into domestic programs, across the board—

Mr. WEBER. If you would prorate that in terms of request for appropriations levels for domestic programs, VISTA constitutes a little over 60 percent, so that would be 60 percent of the \$20 million, which would involve an additional \$12 or \$13 million.

Mr. BROWN. So you are talking about \$45 million versus \$36 million on that basis?

Mr. WEBER. That is right.

So there was a direct commitment from Mr. Weber representing the administration that there would be \$12 million of additional money that would go to VISTA. In the letter that was quoted there was reference to a VISTA-type program. I suppose a VISTA-type program would be in VISTA because they have different programs and they do change their programs. They enlarge

some and diminish some. I think the testimony definitely proves that \$12 million will go into VISTA and \$8 million will be divided among the other programs, though we do not have a division on that. They were not able to give us a division for the other programs.

Mr. ERLÉNBERN. The gentleman certainly is right. I am happy that he has clarified that point. Those who get hung up on whether it is a VISTA program or a VISTA-like program again are being hung up on organization matters and are trying to protect the status quo. They are not really worrying about the ultimate effect of putting some \$20 million into helping solve the problems of poverty around the country.

Now, which is more important? Is it more important to protect the status quo, to keep the structure we are familiar with, to protect committee jurisdiction? Or is it more important that we get something done?

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. ERLÉNBERN. I am happy to yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. The gentleman asks which is more important. Is it important to retain the present programs, identities, structures, and so on? Will not the gentleman admit that under this plan the jurisdiction for the various programs, according to the administration letters, is going to remain exactly where it is? In other words, what the gentleman and the gentleman from California have said is that this is to expand the poverty program by \$14 million worth of VISTA programs. I do not see it that way, but that is the gentleman's claim.

Mr. ERLÉNBERN. I do not know what the gentleman means by "jurisdiction". If he is referring to committee jurisdiction, I believe this is a most parochial interest.

What is important? Is it important that the same committee continue to have control over the program, or is it important that we are putting more funds into the program and getting a better job done?

The most parochial of interests is trying to protect committee jurisdiction of an individual chairman. If that is what the gentleman wants to appeal to, fine, but I really believe he casts himself in a most unusual role in protecting committee jurisdiction, protecting form and structure, and protecting and defending the status quo.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield further?

Mr. ERLÉNBERN. I am happy to yield further.

Mr. THOMPSON of New Jersey. This is a letter of May 22, received on May 24, addressed from the Executive Office of the President to a distinguished member of the gentleman's committee who is of his view on this subject. I am not the one who is parochial.

Listen to this:

Unless and until the Congress shall otherwise direct, the Peace Corps Act will remain a separate statute and we assume that future changes in that Act, including amend-

ments to appropriations authorizations, will be considered by the Foreign Affairs Committee.

Is that parochial? Is that an innovation?

Furthermore, we assume that the Education and Labor Committee will continue to exercise comparable jurisdiction.

They are the ones who are yielding. This is not a change. This is signed by Mr. Arnold R. Weber.

They are yielding in an effort to sell this thing to the committee chairmen; not I.

Mr. ERLÉNBERN. I believe the gentleman completely misunderstands the point I am trying to make. I am not trying to argue we should or should not keep committee jurisdiction. The gentleman from New Jersey raises that point.

My point is that that really is not terribly important. What is important is whether the Action Agency or a new program to fight domestic poverty is going to do a better job. If it is, I am really not terribly interested in committee jurisdiction. It is the gentleman from New Jersey who raises that point. I say as a defender of the status quo he casts himself in a very unusual role.

Mr. THOMPSON of New Jersey. I thank the gentleman for that, very much.

Mr. ERLÉNBERN. Let me make one or two other observations.

The gentleman from New York (Mr. ROSENTHAL) indicated that somehow, by having a joint recruitment, we would eliminate the personal choice of volunteers. The hearings made it quite clear this will not be so. The volunteer will not have to go around hunting for the particular office to make his application, for VISTA or for the Peace Corps or some other program. There will be one office where he can go, with one recruitment program, but he will have his choice as to whether he goes with the Peace Corps or VISTA.

If he volunteers for a foreign program and he is not accepted for that he will not be assigned without his choice to a domestic program.

It is important to note, however, that there are those who are volunteers who would like to fight the problems of poverty and perhaps at one time would like to do this in a Peace Corps type of operation and at another time in a VISTA type of operation. Instead of having to serve out the time in one and be discharged and apply to another, they will have freedom to transfer within the new Action Agency.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. HORTON. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. ERLÉNBERN. I thank the gentleman for yielding.

Let me make one last observation. I believe the gentleman from New Jersey quoted the New York Times article or the Washington Post article concerning a supposed memo in the present Peace Corps concerning those who might be considered for executive positions in the new Action agency. I talked to Mr. Blatchford personally about this.

I have been assured by him that this memo is not an official memo, was not requested by him, and has not been approved by him. This is the effort of some middle management man in the Peace Corps who did not do this at Mr. Blatchford's request, and Mr. Blatchford has not approved it. This may be or it may not be a part of a total overall input from the several different agencies as to suggestions as to who might be considered but by no means should it have the implication put upon it by the press.

Mr. Chairman, I thank the gentleman for yielding again, and I yield back the balance of my time.

Mr. HOLIFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. REUSS).

(Mr. REUSS asked and was given permission to revise and extend his remarks.)

Mr. REUSS. Mr. Chairman, this is a good debate. I find myself, as I often do, with friends and relatives on both sides of it, but I come down strong in favor of the reorganization plan and hope that the vote, if I have it right, Mr. Chairman, will be "no"—in favor of the reorganization plan.

Mr. Chairman, I was much moved by the address of the gentleman from New Jersey (Mr. THOMPSON) particularly his evocation of the great funeral oration of Marc Antony, and I would just say that as far as I am concerned, the purpose of this reorganization plan is not to bury the Peace Corps or VISTA, but to praise them. I think it would make good programs better, and good programs they certainly are.

Some 52,000 Americans have served in the Peace Corps, and European countries have come to emulate it in their own programs.

Here at home VISTA has come to life to help poverty people in their own communities in a similar way. Recently programs have been started in a similar vein for senior citizens and businessmen.

They all have the same goal, that is, to help those who need help to achieve a better life, and to let the idealistic citizen who wants to serve, to serve on a less-than-career basis. So there is a strong case made for grouping them in the interests of economy and efficiency.

The action proposal has been called a hydraheaded monster. Well, I am against monsters, and particularly I am against hydraheaded monsters, but I think that you cannot group anything together without getting several eggs in one basket. Here the eggs seem to me to be congruent eggs that can be well treated in that one basket.

Mr. Chairman, I want to congratulate the chairman of the House Committee on Government Operations (Mr. HOLIFIELD) and the other members who are supporting the plan in exacting and extracting from the administration what seems to be a very meaningful commitment as to the future funding of these organizations. Whatever the administration's wobbles may have been in the past, I think that the record is now clear that they mean to preserve the separate identity and adequate funding for all of these constituent agencies.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield to me?

Mr. REUSS. I am glad to yield to the chairman of the committee.

Mr. HOLIFIELD. I thank the gentleman for his statements.

Of course, the letter that has been quoted from, from Mr. Weber, goes on to say:

Furthermore, we assume that the Education and Labor Committee will continue to exercise comparable jurisdiction with respect to Title VIII of the Economic Opportunity Act of 1964, as amended (VISTA), and Title VI of the Older Americans Act of 1965, as amended (Retired Senior Volunteer Program and the Foster Grandparent Program), and that the Committee on Banking and Currency will continue to have jurisdiction with respect to the SCORE-ACE program, since that program is conducted under the provisions of the Small Business Act, as amended.

There is nothing in Reorganization Plan No. 1 requiring any change in the present jurisdiction of various legislative committees. With these commitments on the part of the administration, I recognize that the administration cannot say where a bill goes or where the authorization goes. But the statutory act means that these various committees—and it is certainly clear—will write the statutes to authorize these programs regardless of what kind of structural arrangement there may be in the executive department. It was due to these commitments and, in fact, they are putting \$12 million more into the domestic program and that is the reasons I was constrained to support the program.

I would assume, although I cannot direct it or mandate it, but I would assume that the jurisdiction will stay in the committees where it now reposes and that the administration has assumed likewise.

The House is in control of its own legislative work and it can set the amount of the appropriations and, I suppose, the Parliamentarian, under the direction of the Speaker, can send it to the Committee on Government Operations. I do not know and I hope they do not.

Mr. REUSS. The gentleman has done in my opinion a good job in enabling the Congress and the House to preserve, if it wishes, what has been called the jurisdiction of the existing committees—and that is as it should be—the Committee on Foreign Affairs, the Committee on Education and Labor, and the other committees which have done a good job. And I would hope they would be enabled to continue to do that good job.

Let me say, finally, to my friend, the gentleman from New York (Mr. ROSENTHAL) and to the gentleman from New Jersey (Mr. THOMPSON), I know they are going to cast their pro forma votes against the reorganization plan. But I hope the reorganization plan will be validated. And then from here on out if there is any shadow of an intent on the part of the administration to gut, eviscerate, or otherwise do irreparable damage to these programs, then the gentleman from New York and the gentleman from New Jersey will be abundantly entitled to say that they were right and that Reuss has been had, and then I shall stand side by side with them to see that these programs

are not eviscerated or otherwise damaged.

So, Mr. Chairman, I hope that the Members of the Committee of the Whole House on the State of the Union will not be caught up with the metaphor which has been used, and will not, in fact, "shoot the piano player."

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Illinois.

Mr. PUCINSKI. I wonder if a distinguished member of this committee or, perhaps, the chairman would tell this House why is it every time that a program starts working in this Government, they want to reorganize it? Why is it that we go into this game of musical chairs with reference to programs which have proven to be efficient and thereby make this Government more efficient and responsive? We do not give Government a real chance.

I was one Member who at one time was critical of some of these programs but over the years when I have seen them operate for the benefit of the people I have come to view it in a different light after these programs have been shaken down and worked out.

Mr. Chairman, the fact that the administration wants to spend more money on it is the best proof that it is a good program. The same thing applies with reference to the Peace Corps. Why is it that when these programs are working and they have found their level and have established their guidelines do they want to abolish them?

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. HOLIFIELD. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield further?

Mr. REUSS. I yield further to the gentleman from Illinois.

Mr. PUCINSKI. You know what is going to happen? The moment you approve this reorganization plan there will be a whole massive musical chairs operation, there will be new directives, there will be new guidelines, there will be new regulations and there will be people shifted around and then we are going to have the same chaos which we had in the early years of these programs.

Now that they are working and we all see that they are working and say they are working, Members on both sides of the aisle, yet someone comes along and says they want to reorganize them.

I have been watching reorganization plans for 30 years but I have found that we have never given them a chance to work, because the moment they start working, some bright ambitious individual comes along and says, "Let us change it."

Mr. REUSS. In answer to the question of the gentleman from Illinois, it is true that many reorganization plans are fussy and piddling and that there is an intent of evading responsibility. And it is also true that the less the administration does, the more reorganization plans are submitted.

But here, as a result of the work of the

Committee on Government Operations, we have extracted some commitments from the administration which, in my judgment, will go to make a better and stronger Peace Corps, VISTA, and all the rest. That is why I am for it.

But I do not want to try to kid the gentleman from Illinois (Mr. PUCINSKI) and say that this is the greatest reorganization plan in the world. In my judgment, it will do some good. I cannot see that it will do any harm, and that is why I am for it.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Mr. Chairman, I thank the gentleman for yielding, and I have two observations to make, first, that my vote today and that of many other Members is not, indeed, pro forma. Secondly, I really am not interested in hearing the gentleman at a subsequent time say that he has "been had" or whatever it would be. I could use any number of adjectives, but I do not think that what has happened to the gentleman could be printed in the RECORD. I would like, however, for the gentleman who has just stated that there have been commitments elicited from the administration to have those commitments enumerated and made a part of the legislative history in the unhappy event that this is adopted.

Mr. REUSS. They have been, and the Chairman, the gentleman from California (Mr. HOLIFIELD) has just detailed them, and they include a commitment to continue the present committee jurisdiction, and they include a commitment, as I understand it, of adequate funding on the order of \$20 million.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I am happy to yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, the gentleman who is now speaking intends to place the three letters from the administration in the RECORD so that the House will know completely. They have been on both desks, they have been available, and I have had one given to the gentleman from New Jersey. I am sure that they have been distributed. Those letters will be a part of the RECORD.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman in the well has my utmost respect for his judgment in matters of this type, but I want to carry on the Shakespearean theme a little further by saying: do you not fear that the VISTA program might go "we know not where, to lie in cold obstruction and to rot" its "sensible warm motion to become a kneaded clod" if this reorganization plan should go into effect?

Mr. REUSS. The gentleman in the well will observe that the world lost a great Shakespearean actor when the gentleman from Texas assumed statesmanship as his career.

Mr. ECKHARDT. I thank the gentleman.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I just want to make this point and that is that if there be any change in any program that this would have to be done by legislation and that this would, of course, have to come up here at a later date. That is in answer to the question that was raised by the gentleman from Illinois (Mr. PUCINSKI). Any change in any program would have to be brought about by legislation and would have to be sent up at a later date.

In other words, the reorganization plan under this procedure does not change any statutory authority as to the Peace Corps or VISTA or any of the other programs. Statutorily they remain the same. And this is also included in one of the letters that the gentleman from California referred to, which is dated May 22, signed by Mr. Shultz, the Director of OMB. So the point is that any change would have to be done by legislation, no change can be made or is being made by Reorganization Plan No. 1.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. HORTON. Mr. Chairman, we have had some people speak in favor of this; are there any more who wish to speak in opposition to the program?

Mr. HOLIFIELD. Mr. Chairman, if the gentleman will yield, I will say that there is. I have promised the gentleman from Massachusetts (Mr. DRINAN) and the gentleman from New York (Mrs. ABZUG) some time. However, I have used all of my time, and I was wondering if the gentleman from New York (Mr. HORTON) would yield me some of his time.

Mr. HORTON. Mr. Chairman, I will be glad to do so.

Mr. HOLIFIELD. Will the gentleman yield 5 minutes to the gentleman from New York (Mrs. ABZUG)?

Mr. SCHEUER. Mr. Chairman, I oppose Reorganization Plan No. 1, which will merge VISTA, SCORE, ACE, Foster Grandparents, and RSVP into a Federal volunteer agency Action. I believe that this plan will have an adverse impact on the very programs we are seeking to improve.

Furthermore, the President's plan has been developed in a cocoon of secrecy. Private organizations and individuals interested in voluntarism were not invited to present their views or recommendations. The majority of the people to be merged are volunteers. This is a point that the administration seems to have overlooked in their zeal to centralize and bureaucratize. Volunteers give of their time and energy because they believe in a cause—the cause is only incidentally "volunteerism." The real cause is anti-poverty work or Peace Corps work. It is inconceivable to me that they were not consulted in the formation of this program.

Not only was the plan formulated by a tiny group of Federal officials shielded from public view, but it is now being advanced for approval by Congress as a fait accompli. The Congress is being asked, in effect, to approve a vague and hastily developed plan for reorganization on the promise that a sound structure and constructive program will somehow emerge. That is not good enough.

If this reorganization is approved against the wishes of the young volunteers who man VISTA and Peace Corps programs, they will interpret the lack of consultation that has characterized the plan's formulation, as evidence that their active participation is neither needed or desired. Implementation of the plan will eliminate any predominant focus on anti-poverty work. This will be interpreted as further proof that the "Establishment" is only interested in preserving and maintaining the status quo.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, I testified before our committee against this reorganization plan. My main interest in doing so, if I may recall, is that I am very much concerned with the fate of VISTA, which plays a very important role in a large part of my community.

In the course of my testifying before the committee, I indicated I had observed a desire to get rid of VISTA for some time before this. Since that testimony I have reason to believe that my concern over the future of VISTA was justified. In a report on the Action agency under which all of these eight programs are to be merged, it is becoming evident that the function, spirit, and directions of VISTA are hardly taken into consideration in the choosing of personnel for the new agency. Of all these people who are being considered for administrative positions, we find that none, of course, are from VISTA. Ten are from the Peace Corps. None are from all the domestic volunteer agencies and many are businessmen who certainly have no major concern at least in the spirit and the direction of VISTA.

In my district, the VISTA program has had a very serious impact and has played a major role in the development of housing programs, newsletters, job programs, and legal services for the people in the communities.

The interesting thing about VISTA is that it has been the one voice for the poor of our Nation who have been locked out of the power structure. VISTA has given them a chance. It is a program which emphasizes community involvement and responsibility. VISTA volunteers have acted as catalysts for community action, and when they have left the community, they have left men, women, and children with a sense of hope for the future and confidence in local leadership.

I am afraid, very frankly, that to take VISTA out of its present place, which is a volunteer program, to remove it from its original source of inspiration and sponsorship; namely, the Office of Eco-

conomic Opportunity, would deprive it of its source of strength.

VISTA has derived great strength from its association with the OEO, as its primary focus has been on the problems of the poor. I am convinced that its poverty orientation will be threatened if it is removed from OEO sponsorship, precisely because the President will be putting VISTA in a separate agency whose programs and goals are only peripherally concerned with the problems of the poor.

I believe that the President's plan is inconsistent with the recommendations of the ASH Commission on Governmental Reorganization, which has proposed that programs be grouped according to functions, regardless of how they are staffed. I believe the program itself will be further damaged in the sense that program areas of volunteers would be predefined and may become inflexible. This can only serve to eliminate self-determination on the part of the local communities and participation of the volunteers in the agency's decisionmaking process as is their present role.

Since funds will be appropriated for a single agency, and not for any single component, funds would be more readily and easily diverted from the VISTA programs' antipoverty effort, and there would be a corresponding decrease in the quality of the program. I believe that this is what the future holds for VISTA under the Nixon administration's reorganization plan. Apparently there is a battle going on in the administration to eliminate this very activist, very spirited and coordinated program in which the poor have a voice through young people who are prepared to make tremendous personal sacrifices.

Many of the people in these programs are people of very fine caliber and I am very shocked to find that none of them is being considered as administrators in the new superagency that is being proposed by President Nixon.

I feel very strongly that one of the finest volunteer programs that I have come into contact with in the short time that I have been in the Congress is the VISTA program, which is presently going to be stifled and snuffed out of existence in this superagency, which, in effect, covers many other areas that go beyond the functions of VISTA. I would urge my fellow Members of the Congress to fight very hard to maintain the kind of volunteerism, activism, and the creative spirit that exists in the VISTA program by voting today to disapprove Reorganization Plan No. 1 of the President, which means to vote "yea" when the measure comes to a vote on the floor.

Mr. Chairman, at this point I am inserting in the RECORD the text of my testimony against Presidential Reorganization Plan No. 1, which I presented April 29 before the House Government Operations Legislation Military Operations Subcommittee:

TESTIMONY OF BELLA S. ABZUG

Mr. Chairman, I wish to express my strong opposition to President Nixon's Reorganization Plan No. 1. The plan would create a new volunteer service super-agency by merging as many as eight current volunteer programs. Today, I appear before you primarily to express my concern about the impact reorgani-

zation will have on the effectiveness and future of volunteers in service to America.

Under the President's Reorganization Plan, Vista would become a single component in a large conglomerate of volunteer-oriented programs. The Foster Grandparents and Retired Senior Volunteer Program from the Department of Health, Education and Welfare, Vista and the auxiliary and Special Volunteer Programs from Office of Equal Opportunity and the service corps of retired executives and the active corps of executives from the Small Business Administration would be merged into a single volunteer agency called "Action." Later, by executive order, the Peace Corps, the Teacher Corps and the Office of Voluntary Action would be added to the super-agency.

In his address to the Congress, the President stated that consolidation and centralization of these volunteer programs has definite advantages, that a merger would allow more effective management and more efficient operation of these volunteer programs, that it would permit new ways of recruiting volunteers and that it would increase and broaden volunteer services. In citing these advantages, I am afraid the President has overlooked numerous disadvantages of such a merger, especially from the standpoint of the future effectiveness and vitality of Vista, which would far outweigh the supposed benefits of the President's plan. Permit me to delineate some of my major objections to the Reorganization plan.

It is disturbing to me that the merger of these volunteer programs will remove Vista from its original source of inspiration and sponsorship, the Office of Economic Opportunity. As an important part of the overall O.E.O. program, Vista volunteers have played an integral part in our nation's antipoverty efforts during the past decade. Vista is a program whose primary concern is the poor—the politically disaffected and the economically disadvantaged. Vista programs have derived great strength from their association with an agency whose primary focus was the problems of the poor. I am convinced that Vista's poverty orientation will be threatened, if it is removed from O.E.O. sponsorship precisely because the President will be putting Vista in a superagency whose programs and goals are only peripherally concerned with the problems of the poor.

Moreover, the President's plan is inconsistent with the recommendations of the ASH Commission on Governmental Reorganization, which has recommended that programs be grouped according to functions . . . regardless of how they are staffed. Let's face it, these other worthy volunteer programs that would be included with Vista in this new superagency, are not of the same breed, or function as Vista. Within these eight volunteer programs there is a multiplicity of goals, problems and methods of solving them.

Realistically, the only thread that binds these programs together is the fact that they are all programs staffed by volunteers. The President's effort to create a superagency out of such diverse and dissimilar programs is like trying to make a suit out of different colors, types and sizes of cloth.

There are other aspects of this plan which I find particularly objectionable. According to the plan, the Director of this new volunteer superagency will have almost total control over the orientation of all volunteer programs involved. Hence, the program areas of the volunteer will be predefined and inflexible. This can only serve to eliminate self-determination on the part of local communities and participation of the volunteers in the agency's decision making process. Furthermore, since funds will be appropriated for a single agency, and not any single component, funds could easily be diverted from the Vista programs anti-poverty effort, with a corresponding decrease in the quality of the program. At this time, I am afraid,

we would hear no great public outcry since the identity, the spirit and the name of Vista would have already been lost with reorganization.

But these concerns, Mr. Chairman, are overshadowed by a greater apprehension on my part. Before the reorganization plan was made public, the Administration made numerous attempts to undercut Vista. Since 1968, for instance, there has not been a fulltime Vista director. I am informed that the present acting director has actively lobbied against continuation of the program. Furthermore, I am advised that an O.E.O. memo of last December and the galley proofs of the Fiscal Year 1972 Budget indicated that the Vista program was scheduled for termination in 1971. I am afraid that Reorganization Plan No. 1 may disguise the President's real intention, which is to relegate Vista to the status of just one of a handful of underfunded, low priority volunteer programs only tacitly supported by the federal government.

This, Mr. Chairman, would be a tragic mistake for such a dynamic program which has bought the politically and economically disadvantaged into our society and has raised the hopes of the poor everywhere. Vista was conceived as a program in which citizens could devote a year of their lives to helping the poor to break out of the cycle of poverty which entraps them. It was conceived as a program where volunteers would promote community participation and control. It was born out of the recognition that simply handing our services to the poor does nothing but perpetuate the conditions of poverty.

I have followed the history of Vista's development closely and I am very familiar with the tremendous impact the Vista volunteers of my district—two of whom are here today to testify—have had. It is disturbing to me to think that the President's Reorganization Plan might in any way jeopardize the efforts of Vista in easing the social and economic hardships of both urban and rural life. The Vista volunteers of my district, especially those connected with the Two Bridges neighborhood council, have insured the crucial participation of community residents in urban renewal planning and have provided legal counsel to hundreds of impoverished residents. Vista volunteers have encouraged the development of on-going community newsletters through which the poor voice their concerns and needs. Vista volunteers initiated the "Black Lung Movement" in West Virginia which culminated in the Federal Coal Mine Health and Safety Act. Vista in hundreds of communities are involved in planning economic development corporations which will underwrite minority business enterprises and provide jobs for the unemployed.

Mr. Chairman, the poor of our nation have always needed a voice, an advocate, and still do. Locked out of the power structure controlling their lives, they are without the means to effect any real change in the conditions of their lives. Vista has given them a chance. As a program which emphasizes community involvement as responsibility, Vista volunteers act as catalysts for community action. They stimulate the identification of community needs and provide the community organization needed to solve problems. But most important, when Vista volunteers leave a community at the end of their service . . . they leave the people of that community with something that dollars in any quantity cannot buy. They leave the men, women and children with a sense of hope for the future and confidence in local leadership. I am afraid that the President's Reorganization Plan will jeopardize the future of this great program. It is for this reason that I respectfully recommend that this subcommittee report unfavorably Presidential Reorganization Plan No. 1.

(Mr. THONE (at the request of Mr. HORTON) was granted permission to extend his remarks at this point in the RECORD.)

Mr. THONE. Mr. Chairman, I rise in support of Reorganization Plan No. 1; and against House Resolution 411.

It was at the University of Nebraska that President Nixon announced his plans to create a new volunteer agency. That speech was well received on the university campus and across the Nation because the President called for the development of new ways of working together in "small, splendid efforts," and for new channels to attack the problems we face as a nation. He called for an "alliance of generations," an alliance of people who want to do something to help their fellow man, and a unifying structure which would broaden the participatory base of the present volunteer programs.

The capstone of this effort to revitalize individual and local initiative is the new agency Action, which we are discussing today. Action will group our presently far-flung volunteer programs under one umbrella agency. It would be impossible, in the short amount of time allotted me, to even deal briefly with the many positive aspects of the proposed Action plan. Therefore, I will confine my remarks to two areas where I think the reorganization plan provides for changes which will have a significant and far-reaching impact on our volunteer service programs.

One of the goals of this reorganization is to provide a mechanism for evaluation of our present volunteer programs with an eye toward developing new ways of enlisting volunteer support. This facet of the plan particularly interests me, for I do not believe that the opportunities for participation in volunteer programs are as extensive, presently, as they could and should be.

For example, we have only four programs in existence which enable individuals to volunteer service on a part-time basis—they are ACE—Active Corps of Executives—SCORE—Service Corps of Retired Executives—for businessmen, and foster grandparents and RSVP—retired senior volunteer program—for older Americans. It is significant that the latter three of these programs are specifically for retired persons. In his message regarding Reorganization Plan No. 1, the President emphasized, as one of the main principles of Action, the increased use of part-time volunteers. Because of the immense pressures of raising a family and providing for future educational expenses, a vast segment of our population is effectively precluded from any type of full-time voluntary service. Until now, this meant the exclusion of these people from practically any type of voluntary program. It is my belief that Action will provide a means by which these Americans will be able to contribute their time and talents to the extent they are available. With the addition of this increased opportunity for part-time volunteer work, we can point with pride to a structure which facilitates "voluntary" service in the broadest sense of the word.

Perhaps the most intriguing concept of the Action plan is the desire to involve different types of sponsoring agencies as vehicles for the voluntary programs. Specifically, I believe that our universities and colleges could be especially effective in administering and supervising these programs. The universities, because of their involvement in the surrounding community, would have a much better awareness of what the problems of a certain area are, and how these problems can be approached and dealt with than a government official who does not have these intimate contacts. Also, by involving students in the very area in which they live and work, this local approach would capitalize on very genuine and deep-seated concerns in producing voluntary programs of the highest quality.

In this regard, I would like to quote briefly from a letter I received yesterday from Dr. Durward B. Varner, the distinguished Chancellor of the University of Nebraska. Chancellor Varner notes:

It is no secret to the American public that college and university campuses have been less than tranquil during the past four or five years. Informed citizens recognize that in most instances the disruptive and destructive actions attributed to students generally have been the work of but a small fraction of the students in the institutions. Much less understood is the deeply held and widespread concern shared by students about many of the issues which are used as rallying points for dissidents. In my judgment—based on twenty years of intimate involvement with the campus—the plain truth is that most college students are genuinely troubled about the existing human conditions. Beyond this, they are anxious to contribute in a positive way to improving the situation.

President Nixon, in his address to the student body of the University of Nebraska on January 14, 1971, made it clear that he recognizes this spirit and he made a commitment that he would initiate a program to provide the framework for putting this constructive attitude to work. His proposed Reorganization Plan Number One is that framework and it offers an exciting potential for universities, for students, and for the community at large.

In summary, I believe that Reorganization Plan No. 1 provides a means by which we can give full meaning to the concept of voluntarism in America. I feel that by broadening our existing programs to encompass part-time, as well as full-time volunteers, and by giving increased emphasis to local sponsoring agencies, we can be much more effective in attacking and solving the different types of problems which exist in different parts of the country. It is time for an all-out assault on the social and domestic problems which for too long have been allowed to exist in this country. Reorganization Plan No. 1 is a vital step in this direction, and I therefore request your support of the reorganization plan by not approving House Resolution 411.

Mr. HORTON. I yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, I rise in support of the reorganization. In other words, I rise and ask for a "nay"

vote on the resolution that is before us. But before I comment briefly on the reasons for taking this position, I feel that the gentleman from New York (Mr. ROSENTHAL), the gentleman from New Jersey (Mr. THOMPSON) should be complimented for a very effective job this afternoon in maintaining an opposition point of view, just as the gentleman from California (Mr. HOLIFIELD) and the gentleman from New York (Mr. HORTON) have done a very effective job in presenting the affirmative position. I make this statement since I recognize that in the other body they have had, in comparison, a perfunctory committee look at this issue. Then they are going to squeeze in this matter sometime in the next few days in-between the various filibusters, so the real record of legislative intent, the real record of Congress on this issue will be written here this afternoon.

I think the high level of debate and the interest of so many Members will thus be evident in the RECORD.

We ought to keep in mind some of the positive points of this plan. I recognize that if someone is convinced that VISTA is going to be gutted, there are not any words that one could utter to the contrary that would change his mind. If some think the President has some diabolical purpose in mind, he would not be convinced by my statement.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Michigan.

Mr. CONYERS. Was the gentleman asking that question of the Membership?

Mr. DERWINSKI. I was just making the comment that if the Members are convinced of a certain position, I do not expect to change their minds. I do think however, that if you look at the RECORD—and let us take Mr. Blatchford, for example. He had a career in private service, prior to entering the Government that was built around the concept of voluntarism. He took the Peace Corps, which after 7 or 8 years had lost a little bit of its glamor and was starting to drag, and he began to revitalize it. We all presume that he will be the Administrator of this new agency. He will do an excellent job. He will revitalize VISTA, which in some areas has drawn criticism that should properly be alleviated.

I do not see anything in this reorganization plan that will do damage to anyone's special interest in the multiplicity of programs that will be pulled together. I see that the gentleman from Illinois, my beloved colleague (Mr. PUCINSKI) expressed some opposition to this reorganization plan. I was a bit intrigued by that because the gentleman from Illinois (Mr. PUCINSKI) was a journalist before entering the political arena, and as an observing journalist, I would presume that he had noted the outpouring of editorial support for this program.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Is the gentleman in the habit of always voting the way the editorial writers suggest he ought to vote?

Mr. DERWINSKI. No, not all the time, but in this particular case I think a proper editorial position must be noted.

Mr. Chairman, may I quote from a Washington Star editorial:

There is no reason why these several service corps should have separate recruiting programs, or why other costly duplications of manpower and talent should continue. Centralization would make application by volunteers and dissemination of information much easier. It also would mean improved coordination and dispersal of these varied programs. Congress should reject the proposal to block this eminently sensible merger.

I see this reorganization plan as a shot in the arm to the Peace Corps, as a shot in the arm to VISTA, as a shot in the arm to all the volunteer programs in the Government.

I believe the new agency will operate in a more effective manner, and will certainly speak with a dramatic voice for the spirit of voluntarism.

I see this not as an attack upon any previous program but as a reaffirmation of the good features, of the positive features we would all hope to support.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Michigan.

Mr. WILLIAM D. FORD. I am sorry the gentleman has not been paying attention to the administration pronouncements with respect to the consolidation of programs by function. One of the most frequently put forward suggestions to improve the efficiency of the Government in the field of education has frequently been characterized by the statement that we would like to put all of the 104-some-odd education programs together in the same place so that we will know how to administer them.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. HORTON. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. WILLIAM D. FORD. I would ask the gentleman in the well how he believes that taking the Teacher Corps program, which is basically a higher education program, where the money is spent clearly in an education program and not in the form of teachers even going out to the neighborhood, and transferring that out of the agency we have been trying to transfer all education into, will accomplish a desirable result? The gentleman has supported all of the spin-offs that moved such things as Headstart out of the poverty program into HEW, on the theory that it gets into education.

Mr. DERWINSKI. Will the gentleman please get to the point of the question?

Mr. WILLIAM D. FORD. How does the gentleman explain supporting a reorganization plan that takes an education program from the only agency primarily charged with education in the Government, and gives it to a new agency.

Mr. DERWINSKI. We are speaking here of the voluntary programs, not of elementary or secondary or higher education. We are speaking of the voluntary effort in this country.

Let me point out that when we speak of this huge Federal structure of ours we have to recognize that in their present

state each one of these programs is so small so as almost to be forgotten. They are to be a collective unit of Government. We put them together in a more visible yet properly controllable agency.

I see that acting to the benefit of every one of these programs that will be coordinated under this reorganization plan.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman yield further?

Mr. DERWINSKI. I yield further.

Mr. WILLIAM D. FORD. I appreciate the gentleman's trying to oversimplify this so that even I can understand it. In doing so he has convinced me he does not know what the Teacher Corps is or what it has been doing. The Teacher Corps is only voluntary in the sense that the students receive the grants subject to going to school voluntarily, to take courses and to graduate, which results in their taking employment in the big city programs, giving them opportunity they would not have had had they not taken advantage of this program. They only agree to go to school at our expense.

Mr. DERWINSKI. The gentleman is missing the point. He is not speaking of voluntary programs and he is ignoring the fact that we are actually giving a special status, a new status to these programs.

I believe the gentleman would agree after a period of time in which these programs have been functioning they start to lose the imagination, the spirit, the original progressive spirit with which they were created.

I believe this will actually serve to reinvigorate every one of these programs which the gentleman and other Members in the House have addressed themselves to this afternoon. I believe this is a positive approach.

Mr. SCHMITZ. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. SCHMITZ. I should like to get rid of some of the bureaucracy here in Washington. Will the gentleman from Illinois tell me how this reorganization program is going to help phase out some of the programs which I am sure he himself opposes, such as regional economic development, subsidized housing, the Administrator for Federal Insurance, Model Cities—

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. HORTON. Mr. Chairman, could we have a rundown on the time remaining?

Mr. HORTON. I have 40 minutes left, and I have 15 minutes for the program and 25 against.

The CHAIRMAN. The gentleman is correct. He has 40 minutes left.

Mr. HORTON. What about on the other side?

The CHAIRMAN. The gentleman from California has 29 minutes of time remaining.

Mr. HORTON. Thank you.

Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois.

Mr. SCHMITZ. Will the gentleman from Illinois in 1 minute answer my question? We have been talking so far here about how this reorganization plan will not cut back on any programs. I

would like to state that I would like to get rid of several of these programs.

Mr. DERWINSKI. The point was made before the committee that there will be a more effective administration and more effective direction of personnel. The coordination between the VISTA worker and the Peace Corps worker and possibly even an interchange between the two will be for the benefit of good administration of these two programs and other volunteer efforts. I do not want the gentleman to think that this will produce Utopia, of course. We must be realistic on that point.

Mr. SCHMITZ. During the hearings was there anything that indicated the administration was planning on phasing out any of these programs?

Mr. DERWINSKI. The first step is to put everything together in a better administrative package.

Mr. SCHMITZ. Did they indicate whether they will be phasing out any programs?

Mr. DERWINSKI. That depends on the individual committees of the Congress. In the Peace Corps—and I will use that as an example—in the last 2 years it has developed a policy to bring into the Peace Corps more mature personnel, which has resulted in better service.

Mr. Chairman, may I reemphasize the key points in support of the reorganization plan. First, it consolidates in one place agencies scattered throughout the Government, making possible greater savings and efficiency, for example in the recruiting systems which are now similar but separate. Second, it will consolidate programs appealing to the young with those appealing to older citizens, bringing a balance of maturity to them all. Third, the consolidation would be the first step in the President's plan to give citizens a greater opportunity to undertake the business of meeting public needs.

This last reason has considerable merit. All too often when a public need is identified there is a rush to provide a Government solution, particularly with more Federal Government employees. With proper support, public, local, private and nonprivate groups can do a tremendous job in the same area. I believe the President's plan will build a system which would allow local initiative to identify problems and recruit full- and part-time volunteers with a minimum of Federal bureaucracy.

We can expect from this new organization a sound advance in all volunteer programs, better management and an emphasis on local initiative. It is for this reason I ask your support for the plan when it comes to a vote this afternoon.

Mr. HORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, I thank the gentleman from New York for yielding this time to me.

Mr. Chairman, I am going to vote against this reorganization plan simply because, despite the good efforts and sincere approach of the committee, there has been no showing here that this reorganization plan will make these programs any better. More importantly, there has been no showing here that these programs are not working well

now. We have made our Federal employees "flack-catchers" simply because we do not give them a chance to make government work, but instead we keep them in a constant state of playing musical chairs and reorganization. Every time a new Executive comes in he shuffles the deck. How in the world can Government employees do a good job when they are constantly being shuffled around?

The President showed good, sound judgment when he came before the committee in 1969 and said:

I do not want to change the poverty program, I want to extend it for two more years.

He gave it a chance to work and therefore today it is working.

The same thing has happened with VISTA and the Peace Corps.

I would like to vote with this committee, but as a practical proposition there is not a Member of this House who will not have to agree with me that once this reorganization plan is voted and approved everything in these agencies will come to a standstill for at least 1 year while new rules are written and new appointments are made and new directors take office.

I am not impressed with the letter which states nothing will change. If nothing changes, then what do we need this legislation for in the first place?

There is not a Member of the House who on a number of occasions has not called an agency up for some assistance on a particular problem and had the department head say, "Well, I would like very much to help you, but we are in a state of reorganization and we will have to wait until new directors are appointed and new personnel is brought in."

Mr. Chairman, these programs are working well. Why not leave them alone and give them a chance?

Mr. HORTON. Mr. Chairman, I yield 7 minutes to the gentleman from New York (Mr. REID).

Mr. REID of New York. Mr. Chairman, I am going to mention some negatives and some positives on this reorganization plan, starting with the negatives.

I would say at the outset, however, that I think any President of the United States should benefit from the presumption that he has the right and the opportunity to reorganize the executive.

And, therefore, I think he deserves the chance to present his case and have it considered by the committees of the Congress.

Mr. Chairman, I would be one of the first to state that the record of this administration relative to the poor, to a massive change in priorities, to a real commitment to the cities and to a larger commitment to the blacks of America lacks credibility and lacks results.

I would say that one of the tests which will determine the credibility of the administration is whether or not the White House overturns Governor Reagan's veto relative to the Legal Services program in California. If the President sustains that program and vetoes Reagan's position that, I think, should be taken into consideration as being a creditable action on behalf of the poor.

There is no question on this reorganization plan that there first was a failure to consult with the VISTA volunteers and with others.

The administration has not made a wholly persuasive case that this plan meets any of the six criteria of the Reorganization Act. I do not think there is any question about that. Further, a series of memorandums have appeared in Washington, including a memorandum by John Wilson, the OEO planning officer, on the 1972 budget marks presented by the office of management. Budget for the Office of Economic Opportunity, which indicated the possibility of the elimination of 100 percent of the funds for VISTA. This is a memorandum on OEO which I discussed with Mr. Blatchford personally this morning and he said he never saw it and that it has no standing. Nevertheless, I have a copy of it and it was circulated.

There was a staff report of May 31, 1971, which shows that none of the present officers of VISTA were being considered for any of the top 30 positions in the new agency. This is not reassuring.

Further, the reorganization plan is not on all fours with the Ash Commission recommendation that agencies should be grouped by function and not by concept, such as the concept of volunteerism. Further, the position of the administration with reference to the Peace Corps in the original submission was not reassuring and, indeed, the galley which the gentleman from New York (Mr. ROSENTHAL) released on the budget for 1972 indicated that VISTA was to be virtually eliminated. This further adds to the lack of credibility.

I am told by the administration that those documents are not accurate and that there is no credence which should be put in them. Nonetheless, these documents apparently have existed at a lower level.

Viewing the reorganization plan from another perspective. There is a case to keep VISTA in OEO because 65 percent of the organizations sponsoring VISTA volunteers are community action programs. There is a case for keeping Foster Grandparents program in the Administration on Aging, and, indeed foster grandparents are not volunteers but must be paid the minimum wage. And, clearly in my judgment—and I am going to oppose this—the Teacher Corps should not be separated from the Office of Education.

Mr. Chairman, having listed the negatives as candidly as I can, I want to indicate some of the positives.

First, I am authorized to say on the floor here by Mr. Blatchford, on behalf of the President, that the President is prepared to "enlarge and improve" VISTA and, further, the President is making a "personal commitment" of his office to stand back of VISTA and its expansion.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. REID of New York. I shall be glad to yield to the gentleman from Michigan when I have completed my statement.

Second, I am authorized to try to add

a little clarity to the funding picture. Instead of a budget projection of \$33.1 million for 1972, the President has agreed to raise this to \$45 million for VISTA. That is \$12 million of the \$20 million that has been referred to.

Further, I have received a commitment from Mr. Blatchford that an additional \$8 million will go entirely to domestic poverty projects with the bulk of it going to VISTA or to the senior citizens program in the poverty area. This could include, for example, in the VISTA area the establishment of a part-time volunteer program or a summer program. But the net effect of this is that the budget will be increased from \$33 million of \$45 million going to VISTA, with an additional \$8 million over and above that for VISTA poverty or VISTA-type activities.

Beyond that I am authorized to state relative to the Peace Corps that a presentation has been made—and hopefully the administration will make a judgment on this by the end of this week—for an increase to probably something on the order of \$82 to \$89 million for the Peace Corps rather than the \$72 million figure that is in the April 30 submission to this body.

Further, Senator JAVITS received assurances that the active head of VISTA and the Peace Corps would be at a higher level, would be Associate Directors, and that he or she will be designated Associate Director for domestic and anti-poverty programs. This reflects a higher commitment to relate this program to poverty.

Having said that, I believe that the President from my conversations with him in the past is clearly committed to an expansion of the volunteer programs. He has held this position for a number of years. I believe he is sincere in it. I would have to say that it is quite clear that the administration has failed before to deal honestly and openly with the Congress on some matters, and there is some doubt as to whether or not it will do so now. Specifically, there is broad questioning in this Nation as to whether there really will be a major commitment—let alone a major increase—in the war on poverty through this and other programs.

I am hopeful that the President will take specific steps promptly to show this, that he will visit some of the VISTA endeavors, have them to lunch and put his personal imprimatur on moving forward with the program in a major way. I have urged that this be done.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. HORTON. Mr. Chairman, I yield 1 additional minute to the gentleman from New York.

Mr. REID of New York. I would add further to this, Mr. Chairman, that I think that if the plan is defeated, there is the danger that VISTA would be destroyed, and there are some in the administration who would be quite happy to see it destroyed within OEO.

I must regard the several documents and memos to which I have referred as serious intentions to do away with

VISTA if the Congress does not approve Action. I do not believe that this reflects at all well on the commitments of this administration. Nor, however, do I think that it will reflect at all well on this administration if it fails to honor the promises it made about VISTA in the course of discussions on this reorganization plan. These are promises which I expect the administration to fulfill explicitly. I am prepared to take the President at his word because I think that it is the best hope VISTA has for survival.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. HOLIFIELD. Mr. Chairman, at this time, I am going to yield 5 additional minutes more to the gentleman from New York, so that we can go ahead with this colloquy that I understand the gentleman from Michigan (Mr. CONYERS) wishes to pursue.

Mr. CONYERS. Mr. Chairman, if the gentleman will yield, I want to congratulate the gentleman from New York, and say that he agrees with our judgment of the committee and that of the gentleman from Wisconsin (Mr. REUSS) in making it difficult for some of those who opposed this, because of the fear that we have that some of these programs are going to be emaciated or eventually extinguished completely.

But I will say that I am interested as to the total of the promised funding and, as I understand, that is about \$4 million over the \$71 million appropriation when it is all boiled down?

Mr. REID of New York. The gentleman from Michigan is partly correct. There is an additional increase that has not been officially approved as yet by the White House, but I am told that it will be by the end of the week, raising the \$4 million that the gentleman is talking about by about another \$10 or \$17 million. This comes about by raising the present \$72 million for the Peace Corps to \$82 or \$89 million. The total increase is from \$141 million to something on the order of \$151 million for all of the programs in Action. So there is an increase, but it has not officially been approved, but the presentation has been made. And I believe that the President will commit to a higher number of volunteers from 4,000 to 5,000 in the Peace Corps.

Mr. CONYERS. It seems to me that if we were to continue this debate or postpone it until next week that we might be able to get up to a more reasonable amount of money that could be used to fund these programs. It would appear as if the longer we delay this measure, the better it would be. I would like to confer with the leadership about it for the purpose of postponing this matter until next week. It might be up to maybe even \$10 million more if all these plans and promises are confirmed as we go along.

Mr. Chairman, I am finding it very difficult even over, I presume, the support of my good friend, the gentleman from New York (Mr. REID), to go along with what has unfortunately developed in this so-called reorganization plan No. 1. Because the key question was asked

by the gentleman from California (Mr. SCHMITZ). He said:

I want to cut these programs—how do I vote?

He said:

I want to reduce some of these programs—how shall I cast my vote?

He asked that question of the gentleman from Illinois. I do not recall that an answer was given and, if it was, I do not recall what it was.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. REID of New York. Mr. Chairman, I have the floor and I would like to respond to the gentleman's question. I will yield to the gentleman from Michigan, but I would like to comment on the point that the gentleman made. I will respond at this time, if the gentleman from Michigan does not wish to continue at the moment.

The gentleman from Michigan phrased a simple question which I will answer and then I will yield to my colleague, the gentleman from Ohio (Mr. BROWN). Specifically, Mr. CONYERS raised the central question as to whether there are some in this body on the minority side who were prepared to cut out some of these programs and to dump them. The answer, if I may have the attention of the gentleman from Michigan, the answer to that question is that he is correct. There are some on this side who are quite prepared to dismember and decapitate and destroy and bury some of the antipoverty programs. But I submit to him the real issue is that there is a better chance for success and expansion and continuity of VISTA if the President places it in an entity that he believes will be effective, and spends the money for it and makes a personal commitment which he is making today in some of the things I am saying. Is it better to defeat the plan and turn it over to OEO where there is a memorandum that I am holding right now which raises an option of a total elimination of VISTA given certain budget figures? This is not to say that this same OEO memorandum does not contain hints about the elimination of VISTA in other ways as well. I think, however, the chances of VISTA would be somewhat better with the presidential commitment, because he is the President and will be for a period of time.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. REID of New York. I promised to yield to the gentleman and I yield to him.

Mr. BROWN of Ohio. Mr. Chairman, I think the point ought to be made by those in favor of both VISTA and the Peace Corps that each of these two entities will be brought out of other organizations into a higher level of visibility in Action. Thus, they will be at a higher level than either one now possesses where it is now located in subordinate positions down inside other agencies.

The gentleman from Michigan tried to make a point that a question was asked about how programs would or could be terminated by this reorganization plan. Certainly, the question was

asked and of course no answer was given to it because the fact of the matter is that you do not change any functions at all by putting them into the new structure proposed in this reorganization plan. The functions remain untouched. It is just the structure of organization which is being modified.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I rise in support of the President's proposal and to point out to the committee certain inaccuracies and misleading statements made by those in opposition to this reorganization plan.

Let me make my points by reviewing the minority views submitted with the report on House Resolution 411.

I begin on page 1 of the views, that is page 19 of the report, with the charge that:

The President states or implies in his message—and administration spokesmen at the hearings echoed and re-echoed this view that Americans have not exhibited a sufficient spirit of unselfish volunteerism and that programs using volunteers have fallen far short of acceptable goals.

No President has been as committed to volunteerism as President Nixon. He spoke of volunteerism in his campaign for the Presidency in 1968, in his Inaugural Address, in supporting the establishment of the National Center for Voluntary Action, in establishing the Office of Voluntary Action, and now in this proposal to create a volunteer agency called Action. He feels more can be done to support volunteers, not that they have not done enough. As well, every administration witness testified that the programs involved were successful, including Associate Director Weber of OMB. Not one said the program had "fallen far short of acceptable goals" as the minority views indicate.

Moving along to the second page, the minority views state:

The Administration intended in 1971 to phase out VISTA.

At no time did the administration intend to kill VISTA. It was suggested by staff during the budget exercise in preparation for the fiscal year 1972 budget as were many suggestions for cutbacks and program terminations. But the suggestion was not accepted. The administration has indicated its intention to keep VISTA and is suggesting a \$12 million increase for VISTA to accommodate expanded programing should Action be approved.

In the interest of time, I will skip the next two pages. On page 23, they state volunteerism "is to be the purpose, goal and raison d'être of Action." That is not true. The goals of Action are to help solve the problems of the poor and the problems of the community both domestically and abroad as noted by Director Designate Blatchford in his testimony. The function or objective of Action are to place and support volunteers on local projects working toward meeting those goals.

The section of "Abandonment of the

Poor" is full of pique and little argument. This administration has not abandoned the poor. In this very case it asks for at least \$12 million in additional money for volunteer programs aimed at combating poverty. Indeed, one wonders who the friends of the poor are in this debate.

On page 26, the statement is made that Congress is being asked to give a blank check on this plan. I submit few plans were as well studied by the committee as this one was. The hearings lasted 3 days and everyone who asked to speak was allowed to do so. I daresay we know more about what is proposed under Reorganization Plan No. 1 than we do about the vast majority of reorganizations we have passed on.

On page 27, much is made about the \$16 million cut in the program budgets. I would point out that most of the cut was made in the Peace Corps budget, due to a 4-year downward trend in applications. The Peace Corps cut was \$17.7 million. The increase in domestic program funding is dramatic. Twenty-three million dollars more will be requested for domestic programs as a result of the opportunities offered by this plan.

On page 28, the statement is made by the opposition that:

It is our firm conclusion that the commitment to retain and support VISTA is so tenuous and vague that it will be a travesty on the welfare of the poor to approve the reorganization plan.

Director Shultz and Associate Director Weber of OMB and Director-designate of Action, Joe Blatchford have all given assurances that VISTA will continue to operate as it is now. Associate Director Weber stated in the hearing that VISTA would have a \$45 million budget; that means a \$12 million increase and, in written response to Senator PERCY, the administration made the same commitment. The commitment of at least \$12 million more to the VISTA budget has been made. Indeed, the opposition should recognize that the expansion of the domestic programs will be guided and funded by the VISTA authorization and program account.

On the same page, the statement is made that funds under Action will be appropriated to the Director of Action. That is not true; they are appropriated for specific programs and cannot be used for any other purpose than that for which they are appropriated.

On page 29, an attempt is made by opponents of the plan to tie together a number of other reorganization proposals, some of which, they feel, are more likely to be approved than others. They then state:

If any one of these contingencies were to fail, establishment of Action would make no sense.

Let me state categorically that the President intends Reorganization Plan No. 1 to stand alone, and the Government Operations Committee and its subcommittee both reviewed the plan as a separate, distinct entity and felt it was justifiable as such.

Mr. Chairman, it is unfortunate so much misinformation has been generated on this plan.

I am even more perturbed by the stories recently appearing in the papers as a result of a leaked, supposed memorandum which purportedly shows people selected for staff positions in the new agency. Only Peace Corps or Peace Corps-related people were listed and the story implication is conveyed that people from other agencies such as VISTA are somehow being locked out. That memorandum had no official standing, but the assurances to the contrary about VISTA's place in Action about the funding for the new agency and about the leadership of the new agency does have official standing.

Mr. Chairman, Action will increase our efforts in world and domestically in community development. The minority views are misleading and do not grasp the fundamental benefits of this reorganization plan. I urge all the Members to support this plan and vote for the creation of the new agency—Action.

I favor the reorganization plan and feel that it does not harm the effectiveness of the Peace Corps or VISTA in any way. On the contrary, those two agencies will become more viable entities whose important contribution to society will be more easily recognized by the public. The emphasis on what a volunteer can do and how he can be better trained to do it will make the agency a more attractive and effective one. In addition, there will be an increased emphasis on domestic needs. Budget Director Shultz stated that the additional \$20 million for Action would be used entirely for domestic programs "with the majority of the funds to be committed to antipoverty activities."

The returning Peace Corps and VISTA volunteer will be better able to be retrained for other volunteer work. In the case of the Peace Corps volunteer, for example, the knowledge that he had gained from overseas duty will not be wasted but used in many areas of community development here at home. Their career opportunities will be broadened and their experience better utilized.

The President's message on Action stated that such an agency would stimulate voluntary action by providing information on successful voluntary efforts and assist in directing those who wish to volunteer services to areas in which their services are needed. The Peace Corps and VISTA can only benefit from this emphasis on volunteerism and, therefore, I support the creation of the new agency—Action.

Mr. HOLIFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I rise in support of House Resolution 411, a resolution to disapprove reorganization plan No. 1 of 1971, proposed by the President. The reorganization plan, if adopted, would create a new Federal agency which would merge six existing programs: First, Volunteers in Service to America—VISTA; second, Foster Grandparents; third, Retired Senior Volunteer Program—RSVP; fourth, Service Corps of Reorganization Executives; fifth, Active Corps of Executives; and sixth, Auxiliary and Special Volunteer Programs in the

Office of Economic Opportunity. The President has also indicated his intention to merge the Peace Corps and the Teacher Corps into this new agency at an early date.

My distinguished colleague the gentleman from New Jersey (Mr. THOMPSON), in his recent testimony before the Legislation and Military Operations Subcommittee of the Committee on Government Operations, aptly summarized the proposed reorganization plan:

We have before us a plan to reorganize successful, ongoing programs into a new agency that offers little in the way of new program or new money.

Mr. Chairman, I shall not here describe the foreboding fiscal consequences of the proposed reorganization plan other than to make two observations. First, I note that the administration's 1972 fiscal year budget request for four key programs affected by the proposed merger—VISTA, the Peace Corps, Foster Grandparents, and RSVP—is \$120,900,000, which is \$16,100,000 less than the Congress has appropriated for the 1971 operations of those vital programs. Secondly, although the President has stated that he will request \$20 million for the proposed new agency in addition to the funds already requested for individual programs, the administration has never concretely indicated the respects in which it would use such funds if they were appropriated. There is no specific assurance whatever from the President that the increased funds would be used to help the poor or minorities at home or overseas.

I am gravely concerned about a theme which has arisen again and again in the Committee on Government Operations' hearings on this resolution, in my numerous communications with men and women who have served in our volunteer agencies, and in my discussions with my constituents of the Third Congressional District of Massachusetts: The poor and minority-group members in our country are fast losing what little faith and hope they have left in the administration's willingness to come to their aid, and in the ability of the entire Federal Government to cope with their problems. The proposed reorganization plan conspicuously fails to include provisions which would justify hope for the poor or minorities. For example, the reorganization plan, first, ignores the recommendation of the Ash Council that volunteer agencies be grouped by function, second, substantially weakens the Office of Economic Opportunity—the only agency in our Government concentrating principally on the problems of poverty—by depriving it of jurisdiction over VISTA and the Foster Grandparents Program, third, facilitates the Administration's apparent intention to terminate VISTA, or at least curtail its functions, and fourth, makes no provision for participation by the poor or minority-group members in the programs which immediately affect them and the lives of their communities.

I am also deeply troubled by another ominous aspect of the proposed reorganization plan. By creating a vast agency with jurisdiction over many different programs, the Executive is in effect at-

tempting to restrict and diffuse the detailed on-going review by congressional committees which have manifested their great expertise and abiding concerns about these and other specific programs. The Congress should not permit its traditional function of specific review of social welfare programs to be dissipated.

In conclusion, Mr. Speaker, there appear to be no cogent arguments that the proposed multiagency merger would in the long run produce efficiencies or savings. There are, however, in my opinion, compelling social policies against the merger, and I therefore urge my colleagues to support House Resolution 411.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. DRINAN. I yield to the gentleman from Illinois.

Mr. PUCINSKI. I congratulate the gentleman for his statement. I ask him whether he gets the feeling, after listening to this debate, that there are some, who, it seems, almost do not want these programs to succeed. Every time a program starts working in this country they start fooling around with the plumbing. One gets the feeling that somewhere along the line someone just does not want Government to work. That is the feeling I get.

Mr. DRINAN. I believe the gentleman from Illinois has made an excellent point. Obviously there are some in this Chamber who would like to get rid of these six agencies. They do not believe in voluntarism.

What troubles me more is the ambiguity of the apparent commitments on funding brought here orally from the administration.

I do not know what funding will be given. I know what I read in the proposed budget of this administration. All I say is that, in the absence of very clear, hard knowledge that more funding is coming to these important programs, I am going to vote against the merger.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, as we move toward the close of the debate, I reiterate a recommendation that we should defer disposition of this matter for a week. At the rate that the promises and innuendoes are coming from the administration in terms of additional funding to prove their good faith and their intentions about whether this reorganization will indeed eliminate some of the very important activities going on, we will surely have several more millions of dollars promised to us at the rate we are going.

I suggest this delay as a course of action for the leadership to consider. I hope we will keep in mind that the administration has a burden to prove its good faith. After all, they have never come down here trying to get more money for VISTA before now. If they are really serious about it, let us see what the offer is and how soon they will make it.

Mr. THOMPSON of New Jersey. Will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. I think the bidding is such now—

Mr. CONYERS. An auction, if you please.

Mr. THOMPSON of New Jersey. It is an auction, but bids are coming in fast. I do not see the gentleman from Iowa on the floor, but earlier in the debate he said he would like to eliminate the Peace Corps. The gentleman from New York (Mr. REID) just informed us of a new commitment to be made later this week increasing the amount of money for the Peace Corps. Yet the gentleman from Ohio (Mr. BROWN) just announced to us that there has been a radical decline in the Peace Corps recruitment. I do not know what they will use the money for if there is a decline in recruitment and an increase in the moneys. Would you please explain to me where you think the money will go?

Mr. ROSENTHAL. Before the gentleman responds, will the gentleman yield to me?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. ROSENTHAL. That is the point that I made earlier. It is like a Charlie Chaplin movie, with a fire engine going back and forth across the street. It is three times now that they have called for the fire engine. They asked for \$20 million and then they reorganized. I think if we stayed here until 5 or 6 o'clock tonight and then said that we will put the thing over until tomorrow, why any kind of an offer may be forthcoming. I believe the gentleman made a very cogent explanation.

Mr. CONYERS. I am glad to realize that there are level-headed Members here prepared to back up their rhetoric with a commitment to preserve these programs.

Mr. THOMPSON of New Jersey. And back up their promises with additional programs on the other side. If we can stay a little bit longer, we might get double the Teacher Corps funding.

Mr. CONYERS. All sort of interesting possibilities are opened up by this suggestion. I am glad the membership is alert to these recommendations.

Second, Mr. Chairman, the gentleman from California has asked a very crucial question. In the earlier debate he asked—and it has not been answered—What does a Member who wants to eliminate some of these programs do? How does he vote? We have had several attempts at answering this question, and I think it is a very valid one. Suppose you want to get rid of the VISTA program. How do you vote?

The gentleman from Illinois could not answer the question. The gentleman from Ohio admitted that he could not answer the question. I ask the leadership on both sides of the aisle this question: How does a person who thinks some of these programs need to be reduced vote on this bill before us?

I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. I am not assuming the mantle of leadership, but there are two ways in which you can answer the question. There are two

theories. If you put all of these agencies into Action, it is obviously sort of analogous to a cage with a number of lions in it. It will not be easy to walk into the cage and grab one of the lions by the scruff of his neck, by the mane, and kill it. On the other hand, you can approach it in this way and say, "Why do you not let them stay where they are, because you are not making a change, anyway, and kill them off individually?" So until that matter is resolved I think we ought to vote "aye" and defeat this plan.

If I may add a thought, the Chief Planning Officer of OEO in a memo that I have seen myself, said that we should cut VISTA 100 percent, but that is politically unwise. Put it into Action and we can let it die a natural death. Maybe they will find it like one of the litter in the morning.

Mr. CONYERS. The gentleman raised a third point that I want to bring attention to, which is the Wilson memo.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HORTON. Mr. Chairman, I yield the gentleman from Michigan 1 additional minute.

Mr. CONYERS. I thank the gentleman for yielding, and I will be very brief.

Mr. Chairman, according to the theory of the gentleman from New York (Mr. REID) the Wilson memo recommends that OEO be cut a full 23 percent and that VISTA be eliminated 100 percent. It seems to me that we are being forced into the position of deciding whether it would be better to have VISTA in OEO and get a 100-percent reduction, or working it into the Action program where it will receive additional millions of dollars but not much commitment.

Mr. REID of New York. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. REID of New York. In response to that I think our choice is whether you leave VISTA in OEO where there is a position paper which raises grave doubts about its continued existence, or whether you place it in Action where you have an increase from \$33 million to \$45 million and a presidential commitment that he will stand back of VISTA and expand and improve it. The latter seems the much more desirable course to follow.

Mr. CONYERS. Which does the gentleman from New York prefer?

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, the tradition of helping a neighbor in need goes back to the frontier days of this Nation. Even as we cherish self-reliance, we recognize that to extend a helping hand to our fellow man also is a valued characteristic of our people. This spirit of voluntarism is a strong thread in the fabric of our society.

It is for this reason that I express strong support for President Nixon's reorganization plan No. 1. As we all know,

this plan would bring together in a new agency called Action such volunteer programs at the Peace Corps, VISTA, Foster Grandparents, SCORE, ACE, and other smaller groups.

The concept of volunteering help one another is a basic tenet in the American way of life. The potential for such programs as Peace Corps, VISTA, and Foster Grandparents in my opinion have not been fully exploited. We have not fully utilized the available talent. They have not developed the good will that should have been a spin-off from the concept of helping one another.

Now is not a time to do away with, destroy or undermine. Now is the time for new direction. We have learned from trying we should capitalize on our mistakes and our knowledge. Now is the time for new imagination. To develop meaningful programs that will help and will build better images. Tens of thousands of Americans can and have been able to serve their fellow man through these programs and build friendship and understanding between strangers. With this new organization programs such as VISTA, Foster Grandparents, and SCORE, ACE will enable young people at home and the elderly and retired businessmen to tackle the urgent problems of their fellow citizens.

I believe the common purpose of these programs will be strengthened by consolidating them into an Action agency as proposed by the President.

There are several obvious benefits of such a merger. A single agency would make much more efficient the recruitment, selection, training, and placement of volunteers. By fixing responsibility in one agency, more effective management could be expected.

The most important advantage, however, is that the concept of voluntarism will be enhanced. I think the good works of volunteers of all ages and from all walks of life will be better recognized and appreciated if their service were channeled through a single agency.

For there is still much to be done in America. We Californians like to think that our State leads the Nation. Yet in candor we recognize that we have our share of today's problems.

Well-trained volunteers could help us in many ways. There are children in need of remedial education; there are young people desperately in need of constructive programs to channel their energies; there are working mothers who badly need day-care centers; there are the elderly and the disabled who would appreciate a helping hand.

The person-to-person approach of an Action volunteer would do much to humanize the many programs which exist but which have not been as effective as they could be.

I sincerely believe that the proposed Action agency can do much to mobilize the great volunteer resources of this Nation and put it to work for the betterment of all of us.

Mr. Chairman, I urge a "no" vote on this legislation pending before us today.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in opposition to House Res-

olution 411 to disapprove Reorganization Plan No. 1 of 1971 which would bring various Federal volunteer programs into a new agency called Action. Before proceeding, Mr. Chairman, I would like to commend the chairman of the Government Operations Committee (Mr. HOLIFIELD), who is also the chairman of the subcommittee which conducted hearings on this reorganization proposal. In looking over the record of those hearings, I was most impressed with the thoroughness of the subcommittee in developing testimony on this proposal. I think it is fair to say that the overall weight of the testimony was instrumental in converting some skeptics as to the merits of the Action agency proposal. The final vote in subcommittee was 9 to 3 in favor of Action, and the full committee went on to sustain the action of the subcommittee by a vote of 22 to 16.

In recommending that Reorganization Plan No. 1 should be allowed to become law, the committee presents a most cogent and persuasive case for Action in its report. I hope all my colleagues have had a chance to read that document because it does address itself to the specific objections and misconceptions being raised by the opponents of this plan.

In that connection, I have also taken special care to read the minority views filed by 10 members of the committee, and I must observe they comprise a most curious case against Action. If one were to take these views seriously, he would be led to believe that if we approve Reorganization Plan No. 1, we will be responsible for unleashing some horrible monster on the American public. To quote from those minority views, Action "is ill conceived, especially with respect to the interests of the poor," and it would "have a serious detrimental effect on the welfare of the Nation." Mr. Chairman, how anyone can argue that an expanded, better planned and directed national program for voluntary action is going to ruin this Nation is beyond me. We are not talking here about unleashing a mad monster on the American people; we are talking about unleashing the creative energies, skills, and idealism of the American people for the benefit of the people.

The minority report also makes the very curious and unsubstantiated charge that the administration has stated or implied that Americans have "not exhibited a sufficient spirit of unselfish volunteerism," and that the administration, by proposing action, has somehow insulted "thousands of dedicated and selfless individuals who have given their time and their energies so amply in the past."

Such a ploy by the opponents is not only sheer nonsense, but completely lacking in taste. Nowhere in the President's message is such an indictment of the American people and their voluntary efforts either stated or implied. In point of fact, the President's message stresses that one of the great strengths of our Nation has been, "the American tradition of voluntary involvement."

The central thrust of the President's message is that—

In the past decade, the Federal Government has built on this tradition by developing channels for joining the spirit of voluntary citizen service in America with public needs.

But that these opportunities "must be adapted and improved" to meet changing needs both at home and abroad. Specifically, there has been a proliferation of Federal volunteer programs, and these must now be brought into line "with new national priorities and new opportunities for meeting those priorities." In the words of the President:

We must take full advantage of the lessons of the past decade, and we must build on the experience of that period if we are to realize the full potential of voluntary citizen service . . . the foundation for a greatly expanded Government contribution to volunteer service already exists. Now we must consolidate that foundation in order to build on it.

And yet, to read the minority views you would think that perfection can be found in proliferation and that we have every reason to be pleased with the present and rest on our laurels. In short, the minority report says we should be satisfied with the status quo when it comes to volunteer programs, while the President, in his action proposal, says we can and must do better.

I was especially interested by one statement which appeared in the minority views, because I think it unwittingly makes a very strong point for an expanded volunteer effort under action. Quoting from that statement:

Every program affected by this reorganization has more applications from potential volunteers than there are available slots to accept them.

Mr. Chairman, what could be a better argument for expanding and consolidating our Federal volunteer programs than the fact that there are so many willing hands which are not being put to use? That there is still a great untapped reservoir of voluntary spirit which is not being properly or effectively channeled to solve our Nation's problems? It seems evident to me that we must provide a new catalyst and outlet for this spirit—that we must give voluntary action programs greater visibility, priority, and direction if we are to effectively enlist the energies of the people in addressing the great challenges of our times.

And yet, the opponents of Action would have us believe that all is well, that any change would be detrimental to the welfare of the Nation, and that there is no quo like the status quo.

I think they would have a hard time convincing the young people of this Nation that that is the case. I think they would have a difficult time persuading the young people I talked with at the White House Youth Conference that we cannot and should not do a better job with respect to our Federal volunteer programs. The fact is, the youth conference task force on the draft, national service and alternatives, specifically endorsed the action agency concept in the following language:

This task force endorses the creation of action corps to bring together volunteer service agencies to first, expand opportunities available for full-time service and second, to serve as an agency designed to further utilize part-time, non-paid volunteers.

Mr. Chairman, it is rather interesting to contrast this enthusiastic endorsement of a White House Conference on Youth Task Force with the status quo-oriented opposition contained in the minority views. To the young people, these status quo stalwarts must come across like a slapstick crew sailing backward into the sunset of the sixties singing, "Don't Rock the Boat." For the fact is, Mr. Speaker, that the opponents of Action are more interested in preserving the past than in facing the future. Like overly proud parents, they refuse to recognize any imperfections in their brain-children, or admit that there might be room for improvement or growth.

There has been a lot of loose talk from the opponents of Action that this reorganization plan will somehow destroy this or that component, when the fact is that the components will be elevated from their subterranean departmental positions and given greater visibility. There is talk that Action is nothing more than a plot to kill VISTA when the fact is that assurances have been given from the top that VISTA will not only be retained in name and identity, but that its funding will be expanded substantially under Action. There is talk that the creation of Action will somehow undermine the interests of the poor, when the fact is that a substantial portion of the extra \$20 million in new program thrusts will be used in seeking new means of addressing the problems of the poor in the context of voluntary action programs. There is talk that Action is nothing more than volunteerism for the sake of volunteerism, when the fact is that Action is designed as a vehicle for effectively applying voluntary resources and energies to our many unmet social needs. All this loose talk which flies in the face of the facts can be found in the minority report. That report can perhaps best be summed up with the phrase: "All talk and no action," and the authors could best be dubbed, "the inaction corps."

I, for one, am on the side of the Action Corps. It is an exciting, innovative, logical, and most importantly, urgently necessary reorganization proposal. I commend the administration for proposing it, I commend the Government Operations Committee for endorsing it, and I urge my colleagues to reject this resolution of disapproval.

Mr. HORTON. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BELL).

Mr. BELL. Mr. Chairman, I would like to endorse the President's proposal to create an action agency.

The proposal is reorganization plan No. 1.

I oppose the pending House Resolution 411.

The President's proposal would merge

the Peace Corps, VISTA, Score, Foster Grandparents and a few other small but volunteer agencies.

The opponents of this reorganization see all kinds of motives, sinister, and otherwise, behind the proposal.

They fear it as a surrender in the war on poverty.

They believe that the character of popular and familiar programs like the Peace Corps and VISTA may be altered.

They suspect an abdication of Federal responsibility.

I would argue otherwise.

I believe, as President Nixon put it in transmitting this plan to Congress, that—and I quote:

America must enlist the ideals, the energy, the experience and the skills of its people on a larger scale than it ever has in the past.

And I believe that Action is the way to do it.

In answering the critics, I would say that the consolidation of diverse volunteer activities offers the opportunity to mount a more unified attack against poverty in all its forms.

Poverty is not simply a matter of economics; it can include the disadvantages of poor education, inability to secure health services, the neglect of the elderly, the isolation of those in rural areas.

There are many ways of helping people in need to cope with their problems.

I believe that Action offers not just a new way, but a more effective way to enlist and utilize the energies of volunteers.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentleman from Illinois, Mr. PUCINSKI.

Mr. PUCINSKI. Mr. Chairman, the gentleman from California (Mr. BELL) is the ranking member on the subcommittee, so that I am sure the gentleman is in a position to answer this:

Could the gentleman from California give us any reassurances that if this reorganization plan is adopted, that there will not be a wholesale dismissal of key personnel in these offices and agencies that are now doing a good job, and that there will not be new directives, new forms, new programs and a complete standstill for at least a year under this reorganization plan? Can the gentleman give us any assurance that this will not happen?

Mr. BELL. The gentleman from Illinois knows that you could not make any such assurances on that, and you could not have done that during the Johnson administration, but we do know and as the gentleman from Illinois knows, and as the gentleman from New York (Mr. REID) said just a short time ago that the President does have an interest in VISTA and that he is going to put more money into the VISTA program, and that he is moving it into a new area, so that there is an interest there that did not exist under the Economic Opportunity Act.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. HORTON. Mr. Chairman, I yield 1

minute to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I believe that the President's plan to merge a wide variety of volunteer groups into a single agency offers a fresh opportunity and challenge to those who want to build a better America.

The President's Reorganization Plan No. 1 would do more than simply bring together the Peace Corps, VISTA, SCORE, Foster Grandparents, and other volunteer agencies. It would create a single agency called Action, a central headquarters for all those who want to volunteer a year or several years to helping his fellow man.

It seems to me that this is both a more efficient and more effective way to tap the volunteer resources of this Nation.

We can give due credit to those in the Peace Corps and in other agencies who demonstrated over the past decade that the volunteer spirit still runs strong.

But, as the President pointed out in his message to Congress, it is time to build on this experience and move on to new ways of enabling volunteers to help solve problems of poverty here and abroad. I believe that there are many, many, people that would volunteer on a full-time or part-time basis if they knew where to volunteer. A single agency ought to make it easier for these people to participate.

I think the new Action agency can do this by encouraging local initiative, by backing up volunteers with technical assistance, by marshaling more part-time volunteers, by linking up with other experienced organizations and by enlisting more craftsmen and professionals as volunteers.

In other words, I think that Action may be the type of volunteer agency needed for the 1970's.

Mr. HOLIFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut (Mr. MONAGAN).

Mr. MONAGAN. Mr. Chairman, in an effort to draw upon the resource of volunteer effort in this country and to help citizens become even more a part of their Government, the President has proposed in Reorganization Plan No. 1 that the volunteer agencies such as Peace Corps, VISTA, ACE, SCORE, and Foster Grandparents be brought together in one new agency to be called Action. I support this reorganization.

Some who have criticized this move offer dire predictions that somehow the domestic poverty agency—VISTA—will be done away with, that it will be dissipated. Yet, those who testified in the House hearings assured us that this would not be the case. To the contrary, the work of VISTA is to be expanded. An extra \$20 million is being sought primarily for this area. Peace Corps Director Joe Blatchford, who is the Director-designate of Action, testified that he hopes to see the projects and programs of VISTA greatly expanded. He said he saw not a downgrading of VISTA, but an upgrading. He told us that he envisions a maximum effort working directly with the people and with volunteers liv-

ing under poverty conditions and helping with education and training and counseling and economic development.

The testimony produced a picture of an agency serving as an advocate for the people. We have in hand firm declarations of intent from the administration witnesses. And these declarations provide a more than adequate response to the concerns voiced by opponents of the reorganization who fear that the domestic poverty effort will be abandoned. It is clear to me that this is not the case and I am sure that most of my colleagues will agree with me.

After the Action agency is created, the Peace Corps Act will remain a separate statute. Any future changes in that law will come, of course, before the Foreign Affairs Committee, of which I am proud to be a member.

The Education and Labor Committee will continue to exercise jurisdiction over title VIII of the Economic Opportunity Act of 1964, as amended—VISTA—and title VI of the Older Americans Act of 1965, as amended. Title VI includes the Retired Senior Volunteer program and the Foster Grandparents program.

The Banking and Currency Committee will continue its jurisdiction over the SCORE-ACE programs since these are carried on under the Small Business Act, as amended.

Against this background, I would like to reassure my colleagues that Reorganization Plan No. 1 in no way infringes on congressional prerogatives. Rather, by consolidating volunteer efforts in a new Action agency, it helps, in the words of the President's transmittal message, "enlist the ideals, the energy, the experience, and the skills" of the American people.

I urge you to support the plan.

I have been concerned particularly myself in this connection with two programs. One is the Peace Corps and the other is the so-called Foster Grandparents plan because many people in my district have shared in this plan and have done excellent work and I would be the last one to want to see it discontinued.

In this connection I received a letter from Mr. Blatchford.

The letter is as follows:

PEACE CORPS,
Washington, D.C., May 24, 1971.

HON. JOHN S. MONAGAN,
House of Representatives,
Washington, D.C.

DEAR JOHN: I'm pleased we had a chance to talk about the Foster Grandparents plan the other day, both because of your leadership on behalf of the program in the past and our mutual interest in its future. I thought it might be well to put down on paper at this point some of my thoughts about Foster Grandparents.

There is no doubt Foster Grandparents is an excellent program. It is respected wherever it operates. It works in some of the most challenging environments to be found anywhere, yet the participants undertake their work with immense pride and great capability. This program is an example of how we in this country should find ways to honor and capitalize upon the energy and dedication of older Americans while at the same time putting their abilities to work. I believe

many more of our governmental programs should follow the example of Foster Grandparents by emphasizing service with dignity, not welfare with surveillance. Should the Congress approve the President's reorganization plan, as Director-Designate of the new Action agency Foster Grandparents would have my complete support.

There has been an understandable concern among senior citizens about shifting Foster Grandparents out of the Office of Aging where it is felt the interests of senior citizens are paramount. There are a number of counterbalancing factors, however, which I suggest favor its coming into a new agency.

First, it will receive much greater public exposure. For example advertising and public relations will associate it with the Peace Corps which a just completed public opinion survey shows to be the most popular and respected of all foreign assistance programs, public and private. It can be lifted from relative obscurity.

Second, it should attain greater prominence in the government as a result of the merger. Instead of being part of a massive HEW budget, Foster Grandparents (and R.S.V.P. as well) will make its request as a major component of a separate agency reporting directly to the President and the Congress.

Third, I believe there will be opportunities to link the part-time programs such as Foster Grandparents and R.S.V.P. with positions for full-time volunteers provided for elsewhere in the Action authority. Thus full-time volunteers, themselves senior citizens, could be available to mobilize and assist the part-time volunteers.

Finally, there is the commitment to senior citizen volunteer programs by this Administration which is genuine and expansive. As a direct result of the merger the Foster Grandparent budget request was recently increased from \$7.5 million to \$10.5 million. I believe Foster Grandparents will be afforded an expanded opportunity to prove its worth and merit expansion. Certainly, I believe it deserves this recognition and will receive the support it deserves.

Sincerely,

JOSEPH H. BLATCHFORD.

Mr. Chairman, this is specifically undertaking a commitment to the continuance of the senior citizens volunteer programs and explains that the merger has had a salutary effect on the Foster Grandparents budget request which was recently increased from \$7.5 million to \$10.5 million.

The other program in which I was very greatly concerned and which has already been discussed here is the Peace Corps.

There has been a significant letter which has been referred to by others from Mr. Arnold R. Weber, the Associate Director of the Office of Management and Budget, in which he specifically says:

There is nothing in Reorganization Plan No. 1 that would require any such change in the present jurisdiction of the various legislative committees.

And—

Unless and until the Congress shall otherwise direct, the Peace Corps will remain a separate statute and we assume that future changes in that Act, including amendments to appropriations authorizations, will be considered by the Foreign Affairs Committee.

Mr. Chairman, the letter I have referred to is as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 22, 1971.

HON. CHET HOLIFIELD,
Chairman, House Government Operations
Committee, House of Representatives,
Washington, D.C.

DEAR MR. HOLIFIELD: You have asked whether we foresee any alteration in the manner in which future legislation dealing with the Peace Corps, VISTA, SCORE-ACE, the Retired Senior Volunteers Program, or the Foster Grandparents Program, particularly authorizations for appropriations for these programs, will be handled by the various legislative committees of the Congress if Reorganization Plan No. 1 of 1971 becomes effective.

There is nothing in Reorganization Plan No. 1 that would require any such change in the present jurisdiction of the various legislative committees.

Unless and until the Congress shall otherwise direct, the Peace Corps Act will remain a separate statute and we assume that future changes in that Act, including amendments to appropriations authorizations, will be considered by the Foreign Affairs Committee.

Furthermore, we assume that the Education and Labor Committee will continue to exercise comparable jurisdiction with respect to Title VIII of the Economic Opportunity Act of 1964, as amended (VISTA), and Title VI of the Older Americans Act of 1965, as amended (Retired Senior Volunteer Program and the Foster Grandparent Program), and that the Committee on Banking and Currency will continue to have jurisdiction with respect to the SCORE-ACE program, since that program is conducted under the provisions of the Small Business Act, as amended.

Sincerely,

(Signed) ARNOLD R. WEBER,
Associate Director.

So, Mr. Chairman, in view of this assurance and in the belief that this would be the case, I am willing to support this reorganization.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. MONAGAN. I yield to the gentleman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from Connecticut.

Mr. Chairman, it seems to me the Congress and the executive branch both ought to take a look at some of the 1,400 different programs that we have and which require administration costs at every regional and State and local level and where so much of the money that is intended for individuals is eaten up in these high administrative costs.

If we are unwilling as a Congress to look at a half dozen programs that could reasonably be combined in one agency so that we really would get "more bang for the buck," so that there would be more to help the constituency for which it is intended; unless we are willing to do this, it seems to me absolutely hopeless so far as any meaningful reorganization of this sprawling Government is concerned. Young people and others are asking for a Government that will be more responsive to the needs of the people.

Today, nobody in the executive branch and nobody in the Congress really knows the extent of all the various 1,400 or

1,500 programs. So I would, with my colleague, the gentleman from Connecticut, ask that we take at least a small step in reorganizing—coordinating a half dozen programs similar in nature; I urge the adoption of this reorganization plan.

Mr. MONAGAN. Mr. Chairman, I thank the gentlewoman from Oregon (Mrs. GREEN) for her contribution. I think she has pointed out an area that is even broader than the one we are attacking in connection with this reorganization plan.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

Mr. HOLIFIELD. Mr. Chairman, I yield 2 more minutes to the gentleman from Connecticut (Mr. MONAGAN).

Mr. MONAGAN. Suffice it to say, I believe that the gentlewoman has made a point of profound significance we in the Government Operations Committee, through our distinguished chairman and our various subcommittees, are actively concerned with this problem and that will be future developments in this area.

Now I yield to the gentleman from New York.

Mr. ROSENTHAL. I thank the gentleman for yielding. I just wanted to make a comment on the observation of the gentlewoman from Oregon about efficiency and economy. We are all in agreement with that. The fact of the matter is, during the course of the testimony no one—no one—testified that there would be a saving of money. In fact, there would be an increase in the administrative costs. If you will read the committee report, you will see that we asked Mr. Carlucci specifically whether he thought there would be any improvement in either efficiency or economy.

Mr. MONAGAN. I decline to yield further. I have less than 2 minutes remaining.

Now, Mr. Chairman, the question of killing programs has been raised and may I say that if any Member wished to kill any of these programs, the thing to do would be to vote against them when the authorizing legislation was presented to the House. In the case of the Peace Corps, when the authorizing bill comes to the floor every Member will have an opportunity to vote for or against that legislation. That question of substance is not involved in the pending resolution.

A question has also been raised about the number of applications in the Peace Corps. The fact is that they have declined. There is underway at the present time however an attempt to change the character of the volunteers, the type of employment for which they are volunteering, and I think there is at least a reasonable probability that there may be an increase. Personally I believe that the new direction is one that we should follow.

So, Mr. Chairman, for those reasons I do support this plan because I believe it is bringing together in a more effective way these various agencies that are related volunteer activities within the Government.

Mr. HOLIFIELD. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. I thank the distinguished chairman for yielding. With regard to the Peace Corps, I think there was a misstatement made by the gentleman from Connecticut that under the Peace Corps Act the President by Executive order may transfer the Peace Corps. In his letter of transmittal the President said he would in fact transfer the Peace Corps to Action. Once the Peace Corps is included in the Action organizational chart, the Committee on Foreign Affairs will lose jurisdiction over the activities of the Peace Corps and over the Peace Corps organization itself. Mark that as a certainty.

Mr. HORTON. Mr. Chairman, I yield myself 1 minute.

What the gentleman has stated is contrary to the testimony of the representatives of the Office of Management and Budget.

Mr. ROSENTHAL. They do not run the committees of Congress.

Mr. HORTON. I understand that, but the OMB has indicated in correspondence that there is nothing in Reorganization Plan No. 1 that would require any change in the present jurisdiction of the various legislative committees.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from California.

Mr. HOLIFIELD. There is nothing in the plan that would change the jurisdiction of any committee. That was testified to by the Director of the Office of Management and Budget. Having studied and debated a few plans in my time, I say there is nothing in the plan before the House that would change the jurisdiction of any committee. A reorganization plan cannot make any change in regard to that. It must be done legislatively. The OMB has indicated that they would not attempt to do anything which would change the jurisdiction of the Foreign Affairs Committee. So I categorically state there would not be any change so far as the Congress is concerned.

Mr. ROSENTHAL. How can the OMB say what committee would have jurisdiction over the agency? Once action is established, the Speaker would refer authorizing legislation related to that agency to a committee of the Congress.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. HORTON. Mr. Chairman, I yield myself 1 additional minute.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from New York.

Mr. ROSENTHAL. The OMB has no say whatsoever of any kind as to what committee would have jurisdiction—other than perhaps some backroom arrangements that might be made.

Mr. HORTON. Nobody is making any statement that they do. I am indicating to the gentleman from New York that that was the testimony at the hearings and the statements that have been made insofar as the administration is concerned. As the gentleman from Califor-

nia has indicated, nothing in this reorganization plan would change the jurisdiction of any legislative committee, and it could not.

Mr. ROSENTHAL. That is absolutely correct. I want the record to be clear.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman from New York yield me 1 minute?

Mr. HORTON. I do not have time remaining.

The CHAIRMAN. The Chair recognizes the gentleman from California.

Mr. HOLIFIELD. Will the gentleman from New York use his remaining time?

Mr. HORTON. I indicated to the gentleman from New Jersey that I would yield him 3 minutes. I yield to the gentleman from New Jersey 3 minutes.

Mr. THOMPSON of New Jersey. Mr. Chairman, may I inquire as to how much time remains?

The CHAIRMAN. The gentleman from New York has 6 minutes remaining and the gentleman from California has 13 minutes remaining.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman from New York yield me 1 minute?

Mr. HORTON. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey.

Mr. HOLIFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey.

The CHAIRMAN. The gentleman from New Jersey is recognized for 4 minutes.

Mr. THOMPSON of New Jersey. Mr. Chairman, I might make an observation. I hope, it being 10 minutes to 4, before my time expires we can get the latest word on what fund offers of money are being made from Pennsylvania Avenue to these agencies.

I must say, although I hope fervently a majority of the House will vote "yea" and, therefore, defeat this plan, that we have come a long way from an established and well-proved determination on the part of the administration to kill the VISTA program and others. Notwithstanding that we might not defeat this, as I hope we will, we have some assurances. I assume that the gentleman from California, the distinguished chairman of the committee, is going to put in the RECORD the letters to which reference has been made.

We have assurances of increased visibility and money for VISTA and its survival intact.

We have assurances of additional money for the Peace Corps and of its survival intact.

We have assurances of additional money for all of the other programs.

And it has been stated here over and over today that the jurisdiction of the committees is not being affected. At the moment I certainly agree with that.

I do not believe it is anything like a persuasive argument for the creation of an agency with no fundamental change except an increase in funding. In other words, this is to be a new agency called Action, and I can think only that the ostensible purpose must be, in the light of the developments today, an effort to

at least muddle or muffle the identity of existing programs in anticipation of the election of next year.

Once again I urge a "yea" vote, which would have the effect of defeating the plan.

I yield back the remainder of my time. Mr. HORTON, Mr. Chairman, I do not have any requests for additional time.

Mr. HOLIFIELD. Does the gentleman intend to make closing remarks?

Mr. HORTON. I will leave that to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have had a very fair debate. I believe the opponents of the plan will grant that the proponents have yielded time generously and have tried to keep their commitment.

We are faced now with the decision. We will be voting on it in a few minutes.

I believe the issues have been fully debated. No one says this plan is perfect. Even the administration admits it is not perfect, but they say they intend to send up additional legislation to overcome some of the imperfections.

I have never known a plan that was perfect when it came before this House.

I want to look at the facts of the case. Before I look at them, let me say I have voted to support VISTA, the Peace Corps, SCORE, ACE, RSVP, and all the other programs to help end poverty in this Nation and abroad. If I did not believe this was a good plan I would not be in the well of this House.

We are trying to put like functions together.

I say the activities to be brought together have like functions, because they are all designed to help poor people, the underprivileged, and the backward not only in our own country but abroad, to come up and get their share of life and the pleasures and perquisites of a good life. They are not all going to reach it. We just cannot take care of all the people in the world. However, the 1971 budget as heretofore presented and approved by the Office of Management and Budget contains \$120.9 million. The administration offered to request \$20 million more than that. That brings the budget up from its present \$120.9 million to \$140.9 million. The administration has committed itself to put \$12 million of that \$20 million into VISTA.

We have had a lot of fun talking here today and some have been making jokes about this. I would say to these people who claim that they are for VISTA that if they are really for it, they would recognize there is going to be \$12 million more in the VISTA program. If they are for the other minor domestic programs, they would recognize that the administration is committed to \$8 million more, bringing up, as I said before, the approved budget level from \$120.9 million to \$140.9 million. These are the figures.

Now, as to the commitment; the President made that commitment in his message. The Hon. George P. Shultz, the Director of the Office of Management and Budget, committed the \$20 million. His assistant, Arnold Weber, has committed it. The man who is the head of

the Peace Corps and who the President says he will put in charge of this overall group has committed this amount.

Can I stand before you and say they will honor that commitment? I cannot. I cannot force them to honor that commitment. But I say that when the President of the United States and his representatives make a commitment to the Congress they are honor bound to fulfill it, and I would expect them to fulfill it.

Because the Reorganization Act gives the Committee on Government Operations the right to oversee the effects of any reorganization plan, I say that this Committee on Government Operations will watch this commitment. If that commitment is not fulfilled by the administration, I will come before this House and say that I was wrong; I placed my faith in the administration and they let me down. I do not think they will do that.

Mr. EVINS of Tennessee. Will the gentleman yield?

Mr. HOLIFIELD. Yes. I yield to the gentleman.

Mr. EVINS of Tennessee. Does the gentleman propose, as the chairman of the Committee on Government Operations, to take a look into the Office of Management and Budget and supervise their operations with oversight? We had a reorganization plan here one time which gave them a number of positions which were not under Civil Service or not subject to Senate confirmation. As you know OMB is now impounding and freezing funds appropriated by the Congress for housing, public works and other important programs and projects. Does the gentleman propose to oversee their operations?

Mr. HOLIFIELD. That is another question. I opposed that plan, as the gentleman knows, on the floor. There were several plans that were sent up, and here on the floor I opposed Plan No. 2.

Mr. EVINS of Tennessee. Will there be oversight of the Bureau of the Budget? Will this committee look into its operations?

Mr. HOLIFIELD. The gentleman knows full well I stood on the floor and said when you create a council of 90 men to assist the President of the United States there will be no way that the Congress can control those men because they have a confidential relationship with the President. There is no way anybody can bring them before us and ask for an accounting of their stewardship. I said that on the floor. Yet notwithstanding that, the House passed that plan. We are in a position now where we cannot call the President's confidential advisers before any committee of the Congress if they do not want to come, and if the President tells them not to come. I do not like it, and I will help to repeal that part of that plan at any time.

Mr. EVINS of Tennessee. Will the gentleman yield further?

Mr. HOLIFIELD. I yield to the gentleman.

Mr. EVINS of Tennessee. He said he proposed to supervise this other agency at some time. Do I understand now that

the gentleman says that he is going to supervise others?

Mr. HOLIFIELD. Well, now, the gentleman from Tennessee is my friend and he is not being fair.

Mr. EVINS of Tennessee. I feel that I am being fair. I feel that the gentleman from California is a great chairman.

Mr. HOLIFIELD. None of these people are in the confidential position of those in the Office of the President. Therefore, those on the Domestic Council are not required to come before the Committee on Government Operations because they are the confidential advisors of the President.

Mr. EVINS of Tennessee. Mr. Chairman, if the gentleman will yield further, I had one member say that he would appear before the committee but we could not record and publish his testimony and that he would not testify under oath. However, he would condescend to appear before the committee.

Mr. HOLIFIELD. The gentleman from Tennessee has presented to me his letter, and it appears in the RECORD as being against this bill. I understand the gentleman's position and I think he has a right to express it.

Mr. EVINS of Tennessee. Mr. Chairman, if the gentleman will yield further, does the gentleman from California think the SCORE plan in SBA involving 4,000 people concerned with domestic matters, should be consolidated with the Peace Corps and be involved in overseas functions?

Mr. HOLIFIELD. Our former colleague, Mr. Kleppe, testified before the Committee on Government Operations that the control of that program would stay in the Small Business Committee and the Committee on Banking and Currency.

Mr. EVINS of Tennessee. Well, then, why take it out?

Mr. HOLIFIELD. This is the President's plan. This is only one part of the plan.

If the gentleman is going to vote against the plan for that or for any other reason he is perfectly entitled to do so. But, on balance, looking at the plan and the commitment of the administration, I am going to honor that commitment until it is broken.

I say to the Members of the House, vote your conscience on this plan. You are not going to break my heart. I am not bleeding all over the floor. However, I do support the plan. I think you will gain more money under the plan, and I would hope that it would result in more efficiency.

Vote "no" if you are in favor of the plan. Vote "yea" if you want to kill the plan.

Mr. EVINS of Tennessee. Mr. Chairman, I want to associate myself with the remarks of the gentleman from New Jersey (Mr. THOMPSON) in support of the resolution opposing the reorganization plan which would consolidate various voluntary agency programs and thereby diminish the effectiveness of the agencies involved—including the Peace Corps and the Small Business Administration.

I oppose this proposal because I believe it to be ill advised and counterproductive.

It is my feeling that it would be a bad mistake to move the Service Corps of Retired Executives—SCORE—and the Active Corps of Engineers—ACE—of SBA into an agency with other organizations with basically different purposes.

These volunteer organizations should remain in the Small Business Administration for the simple reason that their goals and objectives are compatible with those of SBA—to aid, counsel, and assist small business.

The Peace Corps should continue to be allied with the State Department because of goals and objectives—and purposes declared by Congress.

This new reorganization fad of trying to lump different organizations together simply because the function—in this instance, volunteer work—will not contribute to efficiency.

On the contrary, efficiency will not be promoted and I fear inefficiency will result.

The combining of all these diverse organizations into one single agency would create a mishmash hodgepodge of operations that have no single common interest.

We know that inefficiency goes hand in hand with bigness.

We would see new bureaucratic layers—additional supervisory and administrative personnel—an entirely new bureaucracy.

We have seen the massive inertia created by the dumping of different, unrelated agencies and departments into one giant department—the Department of Health, Education, and Welfare. And we should not create any more super-giant agencies.

The SCORE program in SBA is working well. This program is part and parcel of the overall SBA operation.

It is ongoing and successful.

The 4,000 SCORE volunteers are rendering real public service.

Why thrust together in one agency volunteers who will work overseas—with volunteers who will be involved in technical assistance to small businessmen?

Mr. Chairman, for these and other reasons, I oppose the reorganization plan and support the pending resolution.

Mr. HORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I rise in support of this plan and urge a "no" vote to disapprove the resolution.

Mr. Chairman, the President's reorganization Plan No. 1 of 1971 demonstrates the determination to restructure the executive branch in a most important area of Federal concern.

An important area of current interest is volunteerism. Countless thousands of Americans are eager to volunteer in activities looking to improvement of the lot of their fellow man. Accordingly, it is important that we strengthen the opportunities for volunteer activities.

Mr. Chairman, the transfer of volunteer activities, as set forth in Reorganization

Plan No. 1 of 1971, offers an opportunity for a greatly expanded program. It offers the means by which the utilization of talents of young and old can be coordinated to benefit the disadvantaged, the handicapped, and all who are in need of assistance through the great strength of our concerned citizens.

Mr. Chairman, the President has always placed special emphasis on the capacity of Americans to render volunteer service—and this restructuring of our executive branch can help bring fuller realization of the President's goals and enhanced benefits to all whom such a volunteer program can aid.

Mr. STEIGER of Wisconsin. Mr. Chairman, last month I went to Estes Park, Colo., to participate in the White House Conference on Youth. As the press has reported, the discussions—lively, spirited, and often highly controversial—centered on the means to alter the status quo through an activist program of social change.

Behind the headlinemaking rhetoric, many of the task forces developed responsible, concrete programs for producing meaningful change in our society. From the groups on poverty, legal rights, environment, education, and employment and the economy, came resolutions asking for opportunities for young people to offer their services in finding solutions to these pressing problems.

Indeed, the central pragmatic theme of the conference seemed to be an appeal from youth to "the establishment" for new avenues of becoming working members of our society. The Task Force on the Draft and National Service developed a plan for integrating these diverse efforts, and suggested that it be coordinated by the proposed Action Corps.

I am well aware that some former VISTA and Peace Corps volunteers have spoken out against the merger, and that Members of Congress who helped create these programs—and have been most dedicated in their support—are now opposing the plan. There is a fear among the opponents that the agencies which stand as symbols of America's concern for the poor and oppressed, will be submerged and lose their identities. These are legitimate concerns—and it is clear that they are motivated by a genuine interest in the well-being of our social action programs. Yet, I am convinced that the continued success of these endeavors is dependent upon the success of the merger.

Mr. Chairman, it must be emphasized that the case against the merger relies upon memorandums which have been rejected, and budget cuts which have not materialized. In fact, nothing has been submerged or dismantled. Instead, we have witnessed a strengthening of the component programs. For example, 60 percent of the additional \$20 billion in funds for Action is slated to go to VISTA, thus raising its budget by about \$10 million over fiscal year 1971. The Javits-Schultz correspondence represents convincing evidence of the commitment to provide the program with sufficient staff and organizational capability to meet the

needs of the domestic and antipoverty programs.

These examples of how the Action Corps is providing for the antipoverty effort should be noted by those who believe that Action is designed to reduce the visibility of certain programs. Just the opposite has taken place, largely because the existence of the Action Corps plan has put the administration's commitment to each effort in the public spotlight. Each of the component programs has been, and will continue to be subject to searching public scrutiny to determine whether the Action Corps can live up to the promises of efficiency and improved importance which have formed the basis for the merger. The responsibility for insuring that these programs are responsive to the needs of the poor, the needy, and the aged will continue to rest with the proper committees in Congress—and by focusing public attention on these programs through the Action Corps, the commitment of the executive can be clearly put to the test.

In the minority views of the committee report, opponents of the merger asked seven questions concerning the nature of volunteer programs. The questions covered the area of goals, recruitment and training, the place of full- and part-time volunteers, focus of control, role of the Federal Government, desirability of a national service corps, and the demand for skilled volunteers versus generalists.

These are legitimate questions—those who favor the present structure should note that with nearly a decade of experience with the Peace Corps and VISTA, little attention has been given to providing the answers. To deny the opportunity for the merger to take place will deaden the impetus for a greater effort at research and development on these key questions. We can hardly afford to do this when our problems are so great and youth is so anxious to serve. We do not need service for its own sake, for volunteerism is not an end in itself. It can only be made meaningful through a carefully designed and coordinated program of training and supervision. It is toward the goal of improving these techniques that the merger is directed.

VISTA and Peace Corps have served well in the past. The volunteers who served in them, and the Members of Congress who created and supported them, have reason for pride in their accomplishments. But we can do better now. We can be more effective in our appeals to the poor and the black, the Chicano and Indian, to all citizens to serve our people and learn in the process. I believe that we will be able to do this more effectively in an Action Corps and I urge your support in getting on with this work now.

Mr. RONCALIO. Mr. Chairman, during the past 5 months, I have spoken four times to this body on the need for governmental reorganization and dispersal of physical plant. But, Mr. Chairman, reshuffling of programs and groups not allied through concept or function can

only bring further inefficiency and bureaucratic entanglement.

Two VISTA's now working in Wyoming have recently written to me concerning their feelings regarding the proposed merger. I would like to share their thoughts with you. One volunteer puts it this way:

Unless remainder as a separate entity is accomplished, I can't visualize working with such diverse groups as the Foster Grandparents and the Service Corps of Retired Executives. We do have common points, but our goals and methods are so completely different. The merger appears to focus on the concerns of volunteers rather than on the needs of the poor.

The VISTA program is one of the few programs that really gets to the basis of the problems of poverty. We are not so cluttered and curtailed by red tape that abounds within most programs that say they are helping the poor. This is not to say that we do not have regulations, but we at least have a fair amount of freedom, enthusiasm, new approaches to problem solving, and dedication to the people we are trying to help—help themselves. VISTA's role as an active advocate and catalyst for the poor helping themselves may well be destroyed.

Another VISTA writes:

It is my opinion that the purpose of VISTA will be greatly hindered by this move. VISTA volunteers are sent into poor communities to assist people in helping themselves economically, socially and politically. Given the nature and extent of poverty in this country, this task requires a strong commitment on the part of the Federal Government. The Administration's proposed merger offers no such commitment. In the President's Nebraska speech, he mentioned that the merging of VISTA and the Peace Corps into ACTION would allow young people to transfer easily from this country to other countries in the world. When VISTA and the Peace Corps first began, they felt they were looking for the same type of person. However, they soon came to realize that this was not the case. Those who have served in the Peace Corps are not necessarily suited for VISTA and vice-versa. Further, in the White House statement of March 24 outlining this new agency, the President constantly referred to voluntary service. VISTA's are not sent into communities to provide services. They are there to help the people develop new programs to meet their needs. VISTA's help initiate community action. They are not social workers, but developers.

Mr. Chairman, the intent of the reorganization plan should be to streamline the executive branch of Government. This proposed merger fails to do this. The President's own study group, the Ash Council, has recommended that agencies be grouped by functions. The programs which we are now discussing do not have the same functions.

SCORE, a group of retired businessmen who counsel small businesses is to be lumped in with VISTA, a program to advance community development.

The Foster Grandparents program is not on a volunteer basis at all. The elderly are paid at or above the minimum wage. The purpose is to provide employment opportunities for low-income, elderly persons. If this body approves this reorganization plan, are we expressing approval of the conversion of Foster Grandparents to a volunteer program?

It is not the best plan to combine the administration, training, and recruitment of programs which are as diverse as these. Each appeals to different seg-

ments of society; recruitment and training must be carried out with this in mind.

This reorganization plan will not aid the administration of these programs. To take one example of the patchwork fashion this plan has been put together with: the administration of SCORE is to be shared by SBA and ACTION. Having two bosses will only confuse lines of authority and make for unnecessary duplication of effort.

Let us not steamroll the idealism and enthusiasm out of these programs by taking away their identity and destroying their spirit.

Mr. MACDONALD of Massachusetts. Mr. Chairman, I support House Resolution 411, to disapprove Reorganization Plan No. 1. My particular concern involves the adverse affect this merger would have on the Peace Corps.

If Reorganization Plan No. 1 is approved by Congress, irreparable harm will be done to the Peace Corps. It will lose its separate character and identity.

The adverse affects will be enormous. First, the job of Peace Corps Director will be downgraded. He will cease to be the head of a prestigious and influential international agency. He will lose ultimate control over policy considerations and over the money appropriated to the Peace Corps. He will be reduced to being a division chief in what is basically a domestic agency.

Second, once the Peace Corps and all the other volunteer programs are under the same bureaucratic roof, they will be forced to compete for attention, funds, status and priority. The component programs such as VISTA, SCORE, and the Peace Corps, will be forced to compete with one another in policy considerations and in ways that will weaken morale and resolve.

I can only foresee confusion and a weakening of all of the separate programs resulting from the merger into Action. I can only foresee the mission and purpose of the Peace Corps being submerged in the new Action bureaucracy. I ask you to join with me in voting "aye" for the resolution of disapproval.

Mr. HARRINGTON. Mr. Chairman, the President's Reorganization Plan No. 1 is now pending before the House. This plan would combine various federally operated volunteer agencies—VISTA, auxiliary and special volunteer programs, Foster Grandparents, RSVP—the retired senior volunteer program—SCORE—Service Corps of Retired Executives—and the Peace Corps—into a superagency called Action.

I would like to express my strong opposition, which is shared by many of my colleagues of both Houses of Congress, to this proposal. Instead of being a reform for a constructive purpose, the President's plan is a reform for the sake of reforming, or, perhaps for political expediency.

According to the United States Code, title 5, chapter 9, section 901, the purposes of an executive reorganization are as follows: First, a reduction in expenditures; second, a grouping of agencies and programs according to functions and goals; third, the consolidation of these agencies under a single head; and fourth,

an increase in Government efficiency. On each of these excellent suggestions, the President has missed the boat with this reorganization plan.

The proposal would not reduce expenditures. In fact, the President is asking for \$20 million above the budget requests he has already submitted for the agencies that would comprise Action. The significance of this \$20 million is diminished by the fact that the administration's budget requests for 1972 for the constituent agencies fall \$16 million below last year's levels of funding. Consequently, the \$20 million additional would bring the total funding level only \$4 million above last year's total appropriation.

Granted that the volunteer agencies need the extra money, but they should receive any budgetary increases individually to avoid competition for funds. A reduction in administrative costs by reducing the duplication of recruiting, training, and placing efforts of the different agencies is impossible because of the different natures of the various volunteer programs. It seems obvious that an elderly SCORE volunteer aiding small businessmen will have different interests and training needs than a Peace Corps volunteer training Africans in the operation of a tractor of the VISTA volunteer trying to organize disadvantaged parents so they can act to improve a school system. The only way expenditures could be reduced would be if some of the programs under Action were reduced in operations, while other programs received special emphasis. This kind of situation would be tragic. Each of the programs has an important contribution to make to this country. Each can and should make these contributions without competing with programs of totally different functions and priorities, as would be the case under Action.

Certainly, Reorganization Plan No. 1 does not seek to limit Action to agencies and programs of similar function. The volunteer programs are attached right now to agencies of similar function. Peace Corps is attached to the State Department whose primary interest is foreign affairs, the two poverty oriented programs are in the OEO, SCORE is a part of the Small Business Administration, and Foster Grandparents and the Retired Senior Volunteer program are a part of the Administration on Aging.

Expenditure reduction, in this case, would mean a loss of independent agency control. The present vitality of the volunteer programs would be lost, to be replaced by the ineffectiveness of a new superbureaucracy. Compared to the programs which exist today, Action would be an agency of inaction.

The President claims that the common denominator of the various agencies is that they all use volunteers. He thus justifies the formation of Action by claiming that the new agency will be a great aid to the establishment of volunteerism as a national priority. I believe that this is wrong for two reasons.

First, it is simply not true that all the agencies that would be combined under Action are volunteer oriented. For example, Foster Grandparent volunteers receive wages. In addition, there are dif-

ferent kinds of volunteers working on these programs. Some of the volunteers are full time, while others are part time and there are many different types of people who would work for Action, with as many different needs and skills.

Second, volunteerism is not a goal to be achieved by itself. A person contributes his services to a particular cause and not just to be a volunteer per se. President Nixon seems to be emphasizing the needs of the volunteer, while deemphasizing the needs of the person being assisted.

Instead of combining programs of similar functions under a single head, President Nixon is combining agencies of not only dissimilar functions, but agencies which serve totally different ways and which even use totally different kinds of volunteers to perform these services.

Thus, Action will not improve the efficiency of the Government, but will, instead, add another layer of bureaucracy to the already top-heavy Government aid programs. Instead of bringing the Government closer to the people through decentralization, as the President claims he wants to do, Action will further isolate programs like VISTA and SCORE from the people they serve. The different agencies would have to compete for funds within Action, while, in their present position, they enjoy direct funding from agencies which share their goals and needs.

As Action will be a primarily domestic, youth-oriented organization, it is evident that the Peace Corps, as the only international division of Action, would be in great danger of being annihilated in the face of competition from the other programs. SCORE, Foster Grandparents, and the Retired Senior Volunteer program, as the only agencies under Action which would be oriented toward the elderly would face the same threat of being lost in the preponderance of youth-oriented programs.

What will happen then to the elderly who depend on the Administration on Aging's volunteer programs for their income or, more importantly, for the social involvement they experience from helping others. The programs that are switched to Action will no longer be as effective as they are now under the Administration on Aging, and the Administration will be weakened by their loss. As the Administration is the only Government agency devoted solely to the problems of the elderly, the final losers will be the unfortunate Americans who happen to be old in this youth-oriented culture.

OEO is the only voice in the Federal Government that is solely devoted to the problems of the poor. Action would, of course, be too pre-occupied with its other programs to give the specialized attention to the poor that the OEO can and does give to them. Thus, VISTA and the other programs that would be taken from OEO and put under Action's jurisdiction would be weakened and the OEO would be equally weakened by the loss of these vital programs taken by Action. Thus, the poor would be forgotten and lose their only voice in this affluent society.

The Peace Corps would lose its effectiveness as an aid to U.S. foreign policy by being separated from the Department of State, and would be weakened as a force for development in foreign lands by its association with domestic-oriented Action. The underdeveloped nations around the world that Peace Corps now serves will lose their voice in the U.S. Government.

Certainly, the beneficiaries of SCORE will suffer if the merger goes through for the same reasons as mentioned before. The poor will feel alienated, the old will feel alienated, and the young will feel alienated. Young people will no longer volunteer for Federal programs when they see their idealistic desire to solve problems perverted into an emphasis on volunteerism as an end in itself by a massive superbureaucracy. It would seem more desirable to decentralize the Federal volunteer programs, and deemphasize their involvement with the Government in light of the general dislike of the Federal system among young people.

In proposing the formation of Action, the President mentioned two important benefits that Action would give to the presently independent agencies.

One of these benefits was that, under Action, young and old Americans would be able to work together for the same goals. My reply to this is "What prevents young and old people from both joining one of the presently independent agencies and 'working together'?" They hardly need the assistance of Action. In addition, it seems evident that the interests and skills of the elderly are very different from those of the young. The older volunteer is attracted to the type of agency which emphasizes economic problems such as SCORE or an agency like Foster Grandparents which gives payments to its workers. The younger volunteer is, on the other hand, attracted by the more sociologically oriented programs, such as VISTA or the Peace Corps, and there is no point in trying to combine the two.

The second important advantage that Action will supposedly enjoy is that volunteers will be able to work in both foreign and domestic programs. Also, the various programs will supposedly be able to cooperate more closely in the use of manpower and skills to better serve the public. Both of these arguments are unrealistic. The volunteer with interests confined in the United States will not be interested in the activities of the Peace Corps, and the Peace Corps volunteer will not be interested in the problems of the American small businessman. The fact that the present volunteer agencies do not cooperate more is a sad commentary on the inefficiencies of bureaucracy, but there is no reason to form a super-agency such as Action to alleviate this situation.

The President has also said that there is a need for a central informational agency to which prospective volunteers can come to find out which program can best use their services. I agree that there is such a need, but it is certainly not necessary to create another huge bureaucratic agency to perform such a simple function.

It is interesting to note that all the

volunteers and employees most involved with the daily operation of the various agencies which would be merged under Action are against the proposal. The National Alliance of VISTA Volunteers, representing the majority of VISTA volunteers is strongly against the plan, and both the Directors and the National Planning Committee of SCORE are also opposed to the merger. These are just two examples of the rank-and-file opposition to the reorganization plan, and there is evidence that many of the directors of the volunteer agencies and various Congressmen were so against Action until they were "persuaded" by some mysterious means to change their opinion. In fact, the Director of VISTA was not even asked to testify before the House Committee on Government Operation which was holding hearings on the future of the Director's own organization. Instead, officers of the OEO controlled the "opinion" of VISTA before the committee. It seems odd that the President did not feel that his reorganization plan would be able to stand up to congressional scrutiny, for, by proposing it as he did instead of through normal legislative channels, he obviously wanted to avoid lengthy debate.

Before a reform as important as this is passed, I think it should be well planned and the public should be told exactly what Action's functions will be. President Nixon has obviously not taken the time to formulate a specific role for his new agency, and the Congress should determine that before we pass this proposal.

Also, the President's motives must be examined. Is he really making this reform to enhance volunteerism—or to kill it. It is a well-known fact that the President has attempted to eliminate VISTA by requesting that VISTA be given zero funding for fiscal year 1972 and by refusing to give that organization a permanent director for almost 2 years, thus reducing morale and effectiveness. Evidently the President tried to keep his plans a secret, and the only reason the information was discovered was that a galley proof dated December 30, 1970, was uncovered with definite plans for phasing out VISTA. Peace Corps and the entire OEO were also slated for budget reductions, and it was only because of pressure from Congress and other groups that badly needed budget increases were granted to Peace Corps and VISTA.

Perhaps Reorganization Plan No. 1 is merely a politically less dangerous way of eliminating activist volunteer agencies. Perhaps the President's fear of social activism is greater than his love for volunteerism. If so, then the Congress should certainly vote no to this plan. Reform for the sake of reform is not progress, but a retreat from the solutions of our country's problems.

Mr. RANDALL. Mr. Chairman, I shall vote "no" on Reorganization Plan No. 1 of 1971. Under the parliamentary situation, the Committee on Government Operations to whom the reorganization plan was referred reported unfavorably, and recommended that the resolution do not pass. Therefore, before us today is a resolution of disapproval and to vote "no" on

such a resolution means to approve the reorganization plan.

Resolution 1 creates what it calls Action or the Action Corps. In a message from the President to the Congress on March 24, 1971, the White House stated that the objective of this plan was to bring together in a single agency all of the voluntary action programs presently scattered throughout the Federal Government. The House Committee on Government Operations has weighed all the pros and cons of the reorganization. It is my belief that the plan will be an improvement of existing organizational arrangements and should lead to a more effective utilization of volunteers in the many areas in which they may render service.

We all know that there are several reorganization plans on the agenda to be considered in the days that lie ahead. I am certain that I shall not be able to ratify all of the proposals of the President, but this one I do think makes some sense.

The President believes that this plan will make more effective the efforts of the Federal Government to promote voluntary activities. He stresses the importance of voluntarism, which means tapping the resources of skills, talents, and energies in the young and the elderly to help the less fortunate among us. The new agency, Action, will give greater impetus to recruitment of volunteer workers, and for that reason I intend to support the reorganization plan.

Our Committee on Government Operations held extensive hearings on this plan. It is generally agreed that the plan is not perfect, and the administration has promised to submit additional perfecting legislation. However, I believe that the President is obligated by law to take the initiative in submitting reorganization plans to obtain greater economy and efficiency in Government, and that he is entitled to acceptance by the Congress of his judgment on the best way to organize given functions in the executive branch. This is not rubberstamping what the President proposes. Rather it is an invitation to make government more effective and to save the taxpayers some money.

Mr. Chairman, I believe that the proponents of a reorganization plan must shoulder the burden of establishing that the reorganization will result in more efficient, economical, and effective conditions than the situation prior to reorganization. I repeat that some of the other reorganization proposals of the President are not palatable and not acceptable. In this particular plan I am willing to accept the assurances that the reorganization will improve present circumstances.

The CHAIRMAN. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 411

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 1 transmitted to the Congress by the President on March 24, 1971.

Mr. HOLIFIELD. Mr. Chairman, I move that the Committee do now rise and report the resolution back to the House with the recommendation that the resolution be not agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BRADEMAs, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration House Resolution 411, to disapprove Reorganization Plan No. 1 of 1971, had directed him to report the resolution back to the House with the recommendation that the resolution be not agreed to.

The Clerk reported the resolution.

PARLIAMENTARY INQUIRY

Mr. GERALD R. FORD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. GERALD R. FORD. Mr. Speaker, for the information of the Members of the House, is it true that a vote "aye" on the resolution is a vote against Reorganization Plan No. 1, and that a vote of "nay" is a vote to approve the President's reorganization plan?

The CHAIRMAN. The gentleman from Michigan has correctly stated the parliamentary situation in his question.

The SPEAKER. The question is on the resolution.

Mr. HOLIFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 131, nays 224, not voting 77, as follows:

[Roll No. 108]

YEAS—131

Abzug	Evins, Tenn.	Mikva
Adams	Fascell	Minish
Addabbo	Flood	Mitchell
Alexander	Foley	Moorhead
Anderson,	Ford,	Morgan
Calif.	William D.	Moss
Annunzio	Fraser	Murphy, Ill.
Badillo	Gallagher	Nedzi
Begich	Gettys	O'Hara
Bergland	Gonzalez	O'Neill
Bingham	Grasso	Patten
Blatnik	Green, Pa.	Pepper
Blatnik	Hamilton	Perkins
Boggs	Hanley	Price, Ill.
Bolling	Hanna	Pryor, Ark.
Brademas	Hansen, Wash.	Pucinski
Brasco	Harrington	Rangel
Burke, Mass.	Hathaway	Riegle
Burlison, Mo.	Hawkins	Rodino
Burton	Hays	Roncallo
Carey, N.Y.	Hechler, W. Va.	Rooney, N.Y.
Carney	Helstoski	Rooney, Pa.
Celler	Hicks, Mass.	Rosenthal
Chisholm	Hicks, Wash.	Rostenkowski
Clay	Howard	Roush
Collins, Ill.	Hungate	Ryan
Conyers	Jacobs	St Germain
Corman	Jones, Ala.	Sarbanes
Cotter	Jones, Tenn.	Scheuer
Culver	Kastenmeier	Seiberling
Daniels, N.J.	Kazen	Stokes
Danielson	Kluczynski	Stratton
Davis, S.C.	Koch	Sullivan
Dellums	Kyros	Thompson, N.J.
Denholm	Link	Tiernan
Diggs	Long, Md.	Udall
Dingell	McCormack	Van Deerlin
Donohue	McFall	Vank
Dow	McKay	Waldie
Drinan	McMillan	Wolf
Dulski	Macdonald,	Wright
Eckhardt	Mass.	Yates
Edmondson	Edwards, Calif.	Yatron
Edwards, Calif.	Meeds	Zablocki
Ellberg	Melcher	
Evans, Colo.		

NAYS—224

Abbt	Gaiino	Feyser
Anderson, Ill.	Goldwater	Pickle
Andrews, Ala.	Goodling	Pike
Andrews,	Gray	Poage
N. Dak.	Green, Oreg.	Poff
Archer	Griffiths	Powell
Arends	Gross	Preyer, N.C.
Ashbrook	Grover	Purcell
Ashley	Gubser	Quile
Aspin	Gude	Quillen
Aspinall	Hagan	Rallsback
Barrett	Haley	Randall
Belcher	Hall	Rarick
Bell	Halpern	Reid, Ill.
Bennett	Hammer-	Reid, N.Y.
Blaggi	schmidt	Reuss
Blester	Hansen, Idaho	Rhodes
Blackburn	Harsha	Robinson, Va.
Boland	Harvey	Robison, N.Y.
Bow	Hébert	Rogers
Bray	Heckler, Mass.	Rousselot
Brinkley	Henderson	Ruth
Broomfield	Hillis	Sandman
Brotzman	Hogan	Satterfield
Brown, Mich.	Holifield	Saylor
Brown, Ohio	Horton	Schmitz
Broyhill, N.C.	Hosmer	Schneebell
Burleson, Tex.	Hull	Schwengel
Byrne, Pa.	Hunt	Scott
Byrnes, Wis.	Hutchinson	Sebelius
Byron	Jarman	Shoup
Cabell	Johnson, Calif.	Shriver
Caffery	Jonas	Sikes
Carter	Jones, N.C.	Sisk
Casey, Tex.	Keating	Smith, N.Y.
Cederberg	Kee	Snyder
Chamberlain	Keith	Springer
Chappell	Kemp	Stafford
Clancy	King	Staggers
Clausen,	Kyl	Stanton,
Don H.	Landgrebe	J. William
Clawson, Del	Lennon	Stanton,
Cleveland	Lent	James V.
Collier	Lloyd	Steed
Collins, Tex.	Lujan	Steele
Colmer	McClary	Steiger, Ariz.
Conable	McCloskey	Steiger, Wis.
Conte	McClure	Stephens
Coughlin	McCollister	Symington
Crane	McDade	Talcott
Daniel, Va.	McDonald,	Taylor
Davis, Ga.	Mich.	Teague, Calif.
Davis, Wis.	McEwen	Teague, Tex.
Delaney	McKevitt	Terry
Dellenback	McKinney	Thompson, Ga.
Dennis	Mahon	Thomson, Wis.
Derwinski	Mailliard	Thone
Devine	Mathis, Ga.	Vander Jagt
Dorn	Matsunaga	Veysey
Downing	Mayne	Vigorito
Duncan	Michel	Wampler
du Pont	Miller, Calif.	Ware
Erlenborn	Miller, Ohio	Whalen
Esch	Mills	White
Eshleman	Mizell	Whitehurst
Findley	Mollohan	Widnall
Fish	Monagan	Wiggins
Ford, Gerald R.	Morse	Williams
Forsythe	Mosher	Wilson, Bob
Fountain	Myers	Wyatt
Frelinghuysen	Natcher	Wydler
Frenzel	Nelsen	Wylie
Fulton, Pa.	Nix	Young, Fla.
Fuqua	Obey	Young, Tex.
Gallfanakis	O'Konski	Zion
Garmatz	Pelly	Zwach
Gaydos	Pettis	

NOT VOTING—77

Abernethy	Edwards, La.	Mazzoli
Abourezk	Fisher	Metcalfe
Anderson,	Flowers	Mink
Tenn.	Flynt	Minshall
Baker	Frey	Montgomery
Baring	Fulton, Tenn.	Murphy, N.Y.
Betts	Gibbons	Nichols
Bevill	Griffin	Passman
Blanton	Hastings	Patman
Brooks	Ichord	Pirnie
Broyhill, Va.	Johnson, Pa.	Podell
Buchanan	Karh	Price, Tex.
Burke, Fla.	Kuykendall	Rees
Camp	Landrum	Roberts
Clark	Latta	Roe
de la Garza	Leggett	Roy
Dent	Long, La.	Roybal
Dickinson	McCulloch	Runnels
Dwyer	Mann	Ruppe
Dwyer	Martin	Scherle
Edwards, Ala.	Mathias, Calif.	Shipley

Skubitz	Stuckey	Wilson,
Slack	Ullman	Charles H.
Smith, Calif.	Waggonner	Winn
Smith, Iowa	Watts	Wyman
Spence	Whalley	
Stubblefield	Whitten	

So the resolution was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Brooks for, with Mr. Bevill against.
 Mr. Runnels for, with Mr. Waggonner against.
 Mr. Roy for, with Mr. Nichols against.
 Mr. Roybal for, with Mr. Montgomery against.
 Mr. Fulton of Tennessee for, with Mr. Abernethy against.
 Mr. Abouzeck for, with Mr. Griffin against.
 Mr. Podell for, with Mr. Roberts against.
 Mrs. Mink for, with Mr. Passman against.
 Mr. Roy for, with Mr. Dowdy against.
 Mr. Rees for, with Mr. Whitten against.
 Mr. Dent for, with Stuckey against.
 Mr. Clark for, with Mr. Ruppe against.
 Mr. Leggett for, with Mr. Fisher against.
 Mr. Anderson of Tennessee for, with Mr. Dwyer against.
 Mr. Murphy of New York for, with Mr. Smith of California against.
 Mr. Metcalfe for, with Mr. Pirnie against.
 Mr. Karth for, with Mr. Dickinson against.
 Mr. Nelson, Charles H. for, with Mr. Martin against.

Until further notice:

Mr. Blanton with Mr. Baker.
 Mr. Edwards of Louisiana with Mr. Betts.
 Mr. Flynt with Mr. Latta.
 Mr. Mazzoli with Mr. Hastings.
 Mr. Ullman with Mr. Price of Texas.
 Mr. Watts with Mr. Whalley.
 Mr. Shipley with Mr. Broyhill of Virginia.
 Mr. Stubblefield with Mr. Wyman.
 Mr. Slack with Mr. Frey.
 Mr. Ichord with Mr. Scherle.
 Mr. Baring with Mr. Burke of Florida.
 Mr. Landrum with Mr. Minshall.
 Mr. Mann with Mr. Johnson of Pennsylvania.
 Mr. Smith of Iowa with Mr. Kuykendall.
 Mr. Long of Louisiana with Mr. Buchanan.
 Mr. Patman with Mr. Camp.
 Mr. Gibbons with Mr. Spence.
 Mr. Flowers with Mr. Mathias of California.
 Mr. de la Garza with Mr. Edwards of Louisiana.
 Mr. Skubitz with Mr. Winn.

Mr. NEDZI and Mr. MACDONALD of Massachusetts changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 316. Concurrent resolution providing for the adjournment of the Congress from May 27, 1971, until June 1, 1971.

GENERAL LEAVE

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that I be allowed to include three letters in the RECORD im-

mediately following my opening remarks on the resolution, House Resolution 411.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution just voted upon and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR THE ADJOURNMENT OF THE CONGRESS FROM MAY 27, 1971, UNTIL JUNE 1, 1971

The SPEAKER. The Chair lays before the House, House Concurrent Resolution 316, together with Senate amendments thereto.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendments, as follows:

Page 1, line 2, strike out "two Houses adjourn" and insert: "House of Representatives adjourns"

Page 1, line 3, after "1971," insert "and when the Senate adjourns on May 26, 1971,".

Amend the title so as to read: "Concurrent resolution providing for the adjournment of the House of Representatives from May 27, 1971, and the Senate from May 26, 1971, until June 1, 1971."

The SPEAKER. Is there objection to concurring in the Senate amendments?

Mr. HALL. Mr. Speaker, reserving the right to object, as I understand the situation, the other body again has closed up shop and gone on their way leaving us dangling on the vine. Mr. Speaker, it seems to me this is happening a little bit too often lately. I can cite two instances when the national interest was involved when the other body had adjourned and gone home for the day and left us with unfinished business.

I would certainly express every hope that inasmuch as the heavy schedule of business does not require our presence here and the other body has decided properly to go home for Memorial Day on completion of business tomorrow that we could at least have some expression from our leadership which does not coordinate with the other body, to the effect that we might meet only pro forma on Thursday inasmuch as this resolution is not in the form that it can be amended and that the Members might trek to their various constituencies and celebrate Memorial Day or Decoration Day, as you see fit to call it, in a proper manner.

Mr. Speaker, I would like to ask the majority leader if there is anything programmed for Thursday next or if, indeed, we have completed the list of business that we had?

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. HALL. I am glad to yield to the majority leader.

Mr. BOGGS. Mr. Speaker, first let me

say that the resolution passed by the House called for adjournment on Thursday, which was the schedule we had announced very early in this session for the various recesses that we expect for Memorial Day, Fourth of July, and others.

As the gentleman well knows, we have no control over the other body so far as what they propose to do and what they do.

Mr. HALL. Mr. Speaker, before yielding further to the gentleman, I am not assured of that, given the proper exercise of leadership.

I continue to yield to the gentleman from Louisiana.

Mr. BOGGS. In further response to the gentleman from Missouri, so far as I know the other body is not interfering with the business of the House of Representatives.

Might I say further to the gentleman that if we complete the balance of the proposed legislation listed on the whip notice for this week tomorrow, we will certainly have a pro forma session at the most on Thursday.

Mr. HALL. I thank the gentleman.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. HALL. I am delighted to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, if we concur in these amendments, will it be construed that we are acceding to the interruption of the filibuster over in the other body?

Mr. BOGGS. The other body can only speak for itself. I cannot speak for the other body.

Mr. GROSS. I know that you do not, but I should think the majority leader could speak to that question as to whether if we concur in this, we will be accused of interrupting the filibuster. I would not want to be put in that position, if that is true.

Mr. BOGGS. The gentleman knows comity between the two bodies and I am not going to make that kind of a statement. I am not going to say that we will or we will not. The other body sets its schedule and the House of Representatives sets its schedule. So far as I know there is no interruption, as I said to the gentleman from Missouri a moment ago, with the House schedule by the action of the other body.

Mr. HALL. Mr. Speaker, I appreciate the statement of the gentleman and I certainly appreciate the statement he has made as to a pro forma session provided we finish our schedule tomorrow.

Now, Mr. Speaker, comity is a two-way street and most of us know how those things work. I say again that the time has come in my opinion where, first, I resent very much their going off and leaving us dangling on the vine over here with unfinished business; and, second, when they are filibustering on such a thing as the Selective Service and Training Act of this Nation which will expire at the end of next month, going off earlier with unfinished business.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. HALL. I am glad to yield to the gentleman.

Mr. GROSS. Perhaps in the future we ought to let the other body initiate the adjournment resolution so that we can amend it on this side.

Mr. HALL. Mr. Speaker, I would certainly agree with my friend, the gentleman from Iowa. We have passed our selective service legislation long since and dispatched it forthwith to the other body in accordance with the representative process. I would hope in the future—although I well know, as the distinguished majority leader has said, that this resolution on our part was presumed to be perfunctory, because we had previously announced the schedules and so forth—that there might be a little more coordination between the two bodies.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. The question is on concurring in the Senate amendments.

The Senate amendments were concurred in.

A motion to reconsider was laid upon the table.

HUD ANNOUNCES REGULATIONS GOVERNING ISSUANCE OF CRIME INSURANCE

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. ANNUNZIO. Mr. Speaker, I would like to call to the attention of my colleagues a newspaper article which appeared in the May 23 Sunday Star on recently proposed regulations of the Department of Housing and Urban Development to implement purchasing of crime insurance in the inner cities of America.

As my colleagues know, I began working on this problem in 1967, and since my initial efforts, more than 100 Members of this body have joined me in cosponsoring legislation enacted into law last year that would provide a program of direct Federal crime insurance.

Like many of my colleagues, I was gratified that this landmark insurance program, the culmination of 5 years of concentrated effort, is finally being realized. I know that hundreds and thousands of inner city businessmen will be given the opportunity to stay in business, providing the rates are affordable rates, which was the language used in the bill signed by the President—affordable rates.

I have not had the time to study the proposed regulations but I want to assure my colleagues who have been reading the press that just as soon as my study is completed, I shall let them know what my findings are.

In the meantime, I have already begun receiving complaints from people directly affected by the proposed regulations—the small businessmen and property owners of our inner cities.

I share the hope that all of our efforts have not been in vain and that rates will be proposed by the Federal Government that will be affordable by those who need the insurance.

The article follows:

AREA RATED HIGH RISK FOR CRIME INSURANCE (By Miriam Ottenberg)

The federal insurance administrator yesterday tagged the entire Washington metropolitan area as high risk for insurance coverage against crime.

That means that if this area is brought under the federal crime insurance program—which is virtually certain—area householders and store owners seeking federal insurance against crime will have to pay higher premiums than people in average or low risk areas.

It also means that suburbanites as far away as Loudoun and Prince William counties in Virginia will have to pay the same premium as people in Washington's inner city because they are included in the Metropolitan area. Lower rates will apply outside this area.

That was made clear in the proposed federal crime insurance regulation published yesterday in the Federal Register.

STARTS AUGUST 1

The program goes into effect Aug. 1. Under the federal program, private brokers will sell the insurance and private companies will service it. The government's role will be to insure the risk.

Federal crime insurance will not be offered everywhere in the country, but only in states where Federal Insurance Administrator George K. Bernstein finds that crime insurance is not available at affordable rates and the "critical market unavailability situation" has not been met through appropriate state action.

In the District, Mayor Walter Washington made a stab at meeting the lack of crime insurance by ordering the insurance superintendent to set up a pooling arrangement where all the companies would, in effect, share the risk.

The insurance superintendent's order requiring the companies to write insurance under the FAIR plan (Fair Access to Insurance Requirements) went into effect April 15, but has not been used because the insurance companies promptly went into court to halt it—preferring to wait for the federally subsidized program in August.

PROGRAM WANTED HERE

D. C. Insurance Supt. Edward P. Lombard disclosed yesterday that when the federal insurance administrator polled the states on whether they thought the federal program was needed in their state "we quickly responded that we believe the federal program should come in here."

In the federal ground rules issued yesterday, the states where the federal program will apply were not listed. That won't be done until July. But in the meantime, the states "most likely, likely and less likely" to have a crime insurance problem on Aug. 1 were listed.

The District, Maryland and Virginia all are listed among the 18 states and territories "most likely" to require the sale of federal crime insurance. The inclusion of Maryland and Virginia makes it possible for the District to come in as the core of a broad metropolitan area.

The other states listed as most likely to need federal crime insurance are California, Connecticut, Delaware, Illinois, Indiana, Massachusetts, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, Rhode Island and Wisconsin. Puerto Rico also was included.

The new regulations, which will be the subject of a public hearing June 11, break new ground in several ways. Probably the most significant change, as far as the insurance community is concerned, is that state lines are ignored.

In a metropolitan area, such as the Washington area, residents will pay the same premium and abide by the same conditions whether they live in the city or the surrounding area, such as Maryland or Virginia.

Across the country, premium rates in metropolitan areas may differ sharply from rates elsewhere in the same state.

CHICAGO RATED "AVERAGE"

Of the 234 metropolitan areas rated in the proposed regulations, only 30 are in the high risk category. The biggest surprise, perhaps, is the Chicago area, which is rated as an "average" rather than a high risk.

Another departure from usual insurance practice is the requirement that both householders and commercial establishments install protective devices before they can qualify for the federal insurance.

Required protective devices range from burglar alarms in stores to deadfall bolts or latches designed to discourage burglars from prying their way into private homes.

Bernstein makes the point in the proposed regulations that "only those protective devices generally in use or readily available for particular types and classes of properties at the present time" will be required.

He warned, however, that as the program progresses, the government as insurer proposes to amend the requirements to enforce higher and more effective standards of protection against ordinary property crimes.

SCOPE IS VIEWED

An insurance official commented that the prospect of increasingly tighter requirements for protection show that the government isn't planning a "handout" forever, but is using the federal subsidy to improve residents' and businessmen's methods of protecting themselves against robbers and thieves.

The regulations themselves provide that no federal crime insurance will be available on property which has not adopted the "reasonable protective measures to prevent loss" established by the government.

To be eligible for federal crime insurance in a state where the federal program is in effect, the householder must equip his property with selflocking dead latch devices on all exterior doors and doors leading into garage areas or public hallways, except that sliding doors may be equipped with dead locks of any kind.

LOCKS ON WINDOWS

All first floor and basement windows, and all window openings onto stairways, porches or platforms must be equipped with locking devices. All dead locks used for residential property must have a minimum "throw" of one-half-inch—that is, the bolt or latch must actually penetrate into the fixed bolt or latch receptacle on the door or window frame by one-half inch.

BELL AT GALLERIES

The protective devices for commercial and industrial property will vary greatly, depending on the type of risk involved, and will be changed periodically as studies now in progress develop new devices.

Establishments whose inventories pose a particularly heavy risk, such as wholesale liquor, tobacco or drug companies; jewelry manufacturing, wholesale and retail companies; gun and ammunition shops and fur stores would have to be protected by central stations, supervised service alarm systems.

Silent alarm systems would be required in liquor stores, pawn shops, electronic equipment stores, wig shops, new clothing stores, coin and stamp shops, industrial tool supply houses, camera stores and precious metal storage facilities.

Local alarm systems—that is, a bell outside

the premises—would be required in antique stores, art galleries and service stations.

To be eligible for federal crime insurance in areas where the program is in effect, the property owner must apply separately for each place he owns and certify that each property meets the required standards for protective devices.

He pays a six-month premium for the policy when he applies for it, agrees to permit inspection of the property at any reasonable time and also agrees to report to police all crime losses of property covered under the policy, whether or not he files a claim.

If he doesn't report the loss, he could lose his insurance or be unable to get it renewed.

Unlike private insurance companies, however, the federal government as insurer will not cancel or refuse to renew a policy because of crime losses.

GROUND FOR CANCELLATION

The only reasons listed in the proposed regulations for cancellation or refusal to renew are nonpayment of a premium, fraud or misrepresentation in the application or renewal of coverage or in connection with submitting a claim; the use of the insured property for any illegal activity or any other substantial failure to comply with the provisions of the policy.

In proposing to cancel a policy because of illegal activity, the government isn't reaching out toward law enforcement. Instead, it's trying to limit its risks. The idea is that money stacked up in a gambling headquarters is more likely to attract robbers than the penny bank of two nice old ladies.

If the property is found on inspection to lack the required protective devices, the conclusion will be that the property was misrepresented at the time of application and is not covered by insurance no matter how long the policy has been in effect.

The only out would be a showing by the property owner that the lack of protective devices occurred after the policy was issued, in which case the policy would be considered canceled as of the date of the deficiency.

CARS NOT COVERED

A householder can get residential crime insurance coverage in amounts ranging from \$1,000 to \$5,000. Automobiles are not covered. To eliminate nuisance claims and hold down costs, the residential policy is subject to a deductible of \$100 for each loss or 5 percent of the gross amount of the loss, whichever is greater.

Premium rates for residential property vary according to the territory in which the insured property is located. Premiums for six months of coverage of \$1,000, \$2,000, \$3,000, \$4,000 and \$5,000 in a high risk territory such as the Washington metropolitan area would amount to \$25, \$35, \$40, \$45 and \$50 respectively.

Where the risk is average, the rates range from \$20 to \$45 for six months of coverage and for low risks the rates range from \$15 to \$40.

The owner of commercial property can get coverage of \$1,000 up to \$15,000. Deductibles amount to \$200 for each loss or 5 percent of the gross amount of the loss. The cost to a businessman would depend on the kind of business conducted, the class of risk and the territory.

SURCHARGE FOR SOME

The premium for establishments located in a shopping center or farmers market will carry a 10 percent surcharge and merchants who cash checks in excess of the total sale also will be surcharged 10 percent.

The regulations explain in detail why the government plans to cross state lines to rate territories by the extent of the risk.

"Because crime rates are related to urban population concentrations rather than to state boundaries," the regulations state, "the insurer (the government) has determined that the interests of the public will be best served by classifying territories for the purposes of the federal crime insurance program on the basis of statistics applicable to entire Standard Metropolitan Statistical Areas, generally referred to as 'SMSA.'"

Under this system, all communities within the same SMSA will be assigned the same rating classification, regardless of the state in which they are situated. But no community within any SMSA will be eligible to take part in the federal program unless the state in which it is located is in the program.

Eligible communities that are not a part of any metropolitan area will be assigned the same territorial classification as the remainder of the state, regardless of the size of the community.

Here's how the formula works out for the District, Maryland and Virginia:

Rated high risk—the Washington, D.C., Maryland and Virginia Metropolitan Area expanded to become an SMSA, including the District; Montgomery and Prince Georges counties, Md.; Alexandria, Fairfax and Falls Church cities and Arlington, Fairfax, Loudoun and Prince William counties, Va.

Rated high risk—Baltimore, Md., SMSA, including Baltimore City and Anne Arundel, Baltimore, Carroll, Howard and Harford counties.

Rated average risk—Norfolk-Portsmouth, Va., SMSA, including Norfolk, Chesapeake, Portsmouth and Virginia Beach.

Rated average risk—Richmond, Va., including Richmond City and Chesterfield, Henrico and Hanover counties.

Rated average risk—Roanoke, Va., SMSA, including Roanoke, city and county.

Rated average risk—Newport News-Hampton, Va. SMSA, including Newport News and Hampton cities and York County.

Rated average risk—Wilmington, Del.-N.J.-Md. SMSA, including New Castle County, Del.; Salem County, N.J., and Cecil County, Md.

Rated low risk—Petersburg, Colonial Heights, Va. SMSA, including Petersburg, Colonial Heights and Hopewell cities and Prince George and Dinwiddie counties.

Rated low risk—Lynchburg, Va., SMSA, including the city of Lynchburg and Amherst and Campbell counties.

Rated low risk—the rest of Maryland and Virginia.

A DEDICATION TO HISTORY— THE L. B. J. LIBRARY

(Mr. PICKLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, the large number of national leaders who gathered in Austin, Tex., last Saturday, were assembled for one primary reason: To pay tribute to former President and Mrs. Lyndon Johnson.

Ostensibly, we converged on Austin to officially dedicate the Lyndon Baines Johnson Library and School of Public Affairs—but it was more than that. We met to honor the man and his wife; we met in gratitude for the 40 years of public service; we met to say, "Thank you, Mr. President."

This Library with its 31 million papers which span 40 years of American history offers the rare opportunity to look inward, to rediscover itself. As President Johnson said:

It's all here: the story of our time—with all the bark off.

Only a man with Lyndon Johnson's unfailing attention to detail could have amassed such a wealth of historical papers. Only a man with Lyndon Johnson's courage would make these documents available to the public.

It is a magnificent contribution. I know of no other government in the world which would make this knowledge available to scholars, to history, and to the people.

Mr. Speaker, I could not attempt to name the national leaders who joined in this dedication. We all appreciate and were honored by the active participation by President Nixon and Vice President AGNEW, and other members of his administration.

The dedication was pleasant, lively, and spirited. It was good for those 10,000 persons there. It was good for our political system and political parties. It was good for the country. The tone and tenor of the entire day was one of happy festivity to pay tribute to one who has given over 40 years of dedicated service to his country.

We know, too, of the participation by the leaders from the Johnson era. Dozens of Members of Congress from both sides of the aisle were there. Men flew in from all points of the world to attend. But we must not forget the many, many people assembled at the University of Texas who were the unsung workers, the people who helped put the Government together and put theory into action.

Mr. Speaker, the world press gave the dedication its full attention. At this point, I include a representative sample of these articles beginning with the hometown Austin American Statesman and others:

[From the Austin American, May 23, 1971]

PRESIDENTIAL LIBRARY

(By Leslie Taylor)

Amid some 4,500 friends, followers and politicians of his own choosing, former President Lyndon Johnson presented the nation with its sixth presidential library, in nationally-televised ceremonies that had Austin sitting up and taking notice.

The muggy, windy weather, the skies that were alternately menacing and bright blue, the long lines at the barbecue buffet, the rigid security arrangements, the barely audible chants of "no more war" from demonstrators who stood a few blocks away visible to the guests, the black balloons rising into the skies in protest—none of these dampened the good humor of the specially selected guests. They knew they were in an "anybody who's anybody" crowd at an historic event.

As the speech-making ceremonies began, the former president beamed. Mrs. Johnson, who had shepherded the planning of both library and ceremonies from their earliest stages, waved enthusiastically from the speaker's platform as she recognized close friends.

The only moment that outwardly caught Johnson off guard came when President Nixon, addressing the crowd, stumbled over a sentence which came out, "Just a few minutes ago, as President Johnson was throwing me through the library—I mean showing me through the library."

The Johnsons had just taken President and Mrs. Nixon on a private tour of the library before the official ceremonies began.

As the crowd laughed, Nixon promised to

come back when he had more time. The Nixons helicoptered back to Bergstrom Air Force Base immediately after the half-hour ceremonies, foregoing the catered barbecue on the shaded grounds.

The 31 million documents which compose the bulk of the library's research materials—and some of which will remain security classified indefinitely—chronicle Johnson's 40 years in public life.

Johnson said the library does not portray events as he saw them but rather, "how the documents show it was."

"There is no record of a mistake, nothing unpleasant, no criticism that is not included in the files here. We have papers from my 40 years of public service in one place, for friend and foe to judge, to approve or to disapprove," he said.

He said the documents reflect "what man can do and cannot do in one life."

Nixon, who officially accepted the library for the federal government which will operate it, said the library "contains more items by far than any other presidential library yet established; and through its connection with a great university, it promises both to enrich the university and to be enriched by the university."

Nixon pleased the crowd when he called Johnson "a partisan of principle and not a partisan of party." He quoted U.S. Senator Albert Beveridge of Indiana who said in a speech in 1888, "He who is a partisan merely for the sake of spoils is a buccaneer. He who is a partisan merely for the sake of a party name is a ghost of the past among living events. . . . But he who is the partisan of principle is a prince of citizenship."

Dr. Harry Ransom, chancellor emeritus of the University of Texas System, told the assembled guests the Johnsons themselves have made personal contributions to the library and school totaling approximately \$2 million. He valued the working resources of the library between \$50 and \$80 million.

"By name, Lyndon Baines Johnson is honored here as an American who has given his life to his state, his country, and his fellow men," Ransom said.

He said the library and school should be dedicated to the beliefs: "That this Republic and its history must survive; that their survival is worth our devotion; that our devotion requires not mindless allegiance but loyalty enlightened by knowledge; that this loyalty challenges open minds to defend responsible freedoms; that the future will call upon courage and courage gain strength in a feeling of identity with all peoples."

Rev. Billy Graham delivered the invocation, and Rev. George Davis of the National City Christian Church, Washington, D.C. delivered the benediction. Former UT Board of Regents chairman Frank C. Erwin, Jr. of Austin presided over the ceremonies.

Other dignitaries on the speakers' platform were Vice President Spiro T. Agnew, U.S. House speaker Carl Albert, Secretary of State William P. Rogers, Secretary of the Treasury John Connally, Governor Preston Smith, Lt. Gov. Ben Barnes, Texas House speaker Gus Mutscher, General Services Administration head Robert Kunrig, Archivist of the U.S. James B. Rhoades, library director Harry Middleton, LBJ School Dean Dr. John Gronowski, UT System Chancellor, Dr. Charles LeMaire, and UT Austin president Ad Interim Dr. Bryce Jordan.

Invited guests included Dr. Norman Hackerman, immediate past president of UT Austin who is now president of Rice University, and the president-elect of UT Austin, Dr. Stephen Spurr of the University of Michigan.

The library and the Sid Richardson Hall, which sits adjacent to the library building and houses the LBJ School of Public Affairs, together cost \$18.6 million under one contract. The federal government paid \$3 million.

The general services administration will operate the library at a cost of about \$850,000 annually.

The library will be open to the public beginning Sunday from 9 a.m. to 5 p.m. on a seven-day a week schedule.

Mr. GERALD R. FORD. Mr. Speaker, will be gentleman yield?

Mr. PICKLE. I yield to the gentleman.

Mr. GERALD F. FORD. Mr. Speaker, although I was not present in Texas on that fine occasion, I wholeheartedly agree with the observation that it was an occasion to pay proper tribute to a leader of America at a time when we are facing grave and serious problems both at home and abroad. Personally, I have a great affection and admiration for former President Lyndon B. Johnson. I consider him a good personal friend and a great American. I was delighted that President Nixon and the Vice President were there to pay tribute to former President Johnson and to dedicate the Lyndon B. Johnson Library.

Mr. PICKLE. Mr. Speaker, I thank the gentleman from Michigan and I am grateful for his remarks. We were proud of the presence of President Nixon and so many members of his Cabinet and the people who were there from all over the world.

LYNDON B. JOHNSON LIBRARY

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I would simply like to follow the gentleman from Texas (Mr. PICKLE) to say that many Members of the House were there as were most of the members of the gentleman's delegation from Texas. The Speaker of the House was there and Mrs. Boggs and I were very happy to be there.

Mr. Speaker, it was indeed a very memorable occasion and one that I think all of us will remember with great pleasure. The library has a tremendous accumulation of material which will be very valuable in studying the past and equally valuable for looking into the future.

Mr. PICKLE. Mr. Speaker, I thank the gentleman from Louisiana.

Mr. ALBERT. Mr. Speaker, I had the privilege of participating on Saturday, May 22, in the dedication of the Lyndon Baines Johnson Library. The library contains the records of the former President's four decades in public life. As former President Johnson said:

It is all here: the story of our time—with the bark off. There is no record of a mistake, nothing critical, ugly or unpleasant that is not included in the files here.

In generations to come, scholars will study over 31 million pages of documents and 500,000 photographs. The beautiful travertine marble building will be home to students and visitors from all over the world. As I sat on the podium and looked across the many thousands of friends who had come to pay tribute to our great former President, I could not help but think that this was a fitting tribute indeed to a man whom history will identify with the great programs he

initiated and thrust forward in the field of education—programs that like his library continue onward to enrich our daily lives and those of our children.

GENERAL LEAVE TO EXTEND

Mr. PICKLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

WITHDRAW ALL FOREIGN TROOPS FROM SOUTH VIETNAM BY NOVEMBER 30, 1971

(Mr. McCLORY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. McCLORY. Mr. Speaker, there is a great deal of discussion today concerning the designation of a fixed date for American troop withdrawal from South Vietnam. Unfortunately, most of those who are supporting this position appear to feel that the United States alone can end hostilities and that the Vietcong and North Vietnamese leaders are entitled to be trusted to terminate their role in the fighting—and that they will voluntarily release and return all American and other prisoners of war whom they are holding.

In seeking establishment of peace in Vietnam as soon as practicable, President Nixon has set schedules of troop withdrawal. All of these schedules of withdrawal have been met. His policy of Vietnamization and total American troop withdrawal has been consistent with re-establishing lasting peace in Southeast Asia and in fulfilling the goal of "a full generation of peace."

Today, I am introducing a proposed concurrent resolution which expresses the sense of Congress that all foreign troops be withdrawn from South Vietnam by November 30, 1971. While this fixed date would necessitate an acceleration in the present rate of American withdrawal, it would be conditioned upon elements which are implicit in President Nixon's peace policy and, in my opinion, is entirely consistent with the "Nixon Doctrine."

Mr. Speaker, as a condition for complete American troop withdrawal on November 30, 1971, the resolution requires that there shall be a cease-fire, to commence on or before August 15, 1971—a cease-fire to which all parties would have to agree. Such a cease-fire would be supervised by a United Nations Military Observer Group.

In addition, the resolution requires the exchange of all prisoners of war on or before September 1, 1971—this complete exchange of prisoners to be carried out under the supervision of the United Nations Commission on Human Rights.

Finally, the resolution which I am proposing requires mutual assurances from North Vietnam and other governments involved in the conflict that they will likewise withdraw their forces from South Vietnam by November 30 of this year.

Mr. Speaker, I am placing the text of the concurrent resolution in the RECORD immediately following these remarks, and I would invite the membership to give careful thought and study to this proposal.

I realize that there are substantial differences of opinion as to the wisdom of announcing a fixed date for American troop withdrawal, and I share in the doubts many have expressed. Also, there have been questions as to whether Members of Congress should initiate proposals of this nature at a time when we look to the President to direct our foreign policy and to reestablish peace. However, Mr. Speaker, I am convinced that Members of Congress have, indeed, an obligation to offer every bit of support and cooperation in behalf of terminating the dreadful conflict in Vietnam which has persisted beyond the tolerance of most of our citizens—a conflict in which we have more than fulfilled our obligations.

Mr. Speaker, I am hopeful that the President and his advisers will receive this proposal with thoughtful consideration as a vehicle that would require the leaders of North Vietnam and of the Vietcong to demonstrate their sincerity and good faith in the cause of peace. This resolution is also offered as a vehicle for attaining an early cease-fire and an exchange of prisoners of war as a part of the overall termination of this conflict.

Certainly, if the North Vietnamese and Vietcong leaders are sincere in their desire for peace—and for the establishment of a fixed date for total American withdrawal, the concurrent resolution provides the means for accomplishing these purposes.

Mr. Speaker, it is my hope that this proposal will receive the support of the President and would also bring a favorable response from Hanoi in order that we may truly see the beginning of a full generation of peace.

The resolution is as follows:

CONCURRENT RESOLUTION

Whereas the President of the United States has determined that the war in Indochina is to be terminated at the earliest possible date; and

Whereas the President, in October of 1970, proposed an immediate ceasefire in Indochina; and

Whereas the President has made total withdrawal from South Vietnam contingent upon the release of American Prisoners of War; and

Whereas Congress, under Article I, Section 8 of the Constitution of the United States must accept its full share of responsibility in matters involving the employment of the Armed Forces of the United States in foreign wars; Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that a date certain of November 30, 1971, should be established for the withdrawal of all American forces from South Vietnam, provided that—

(1) a total cease-fire be established between the parties involved, to commence no later than August 15, 1971, under the supervision of a United Nations Military Observer Group; and

(2) all prisoners of war held in Indochina are identified and exchanged no later than September 1, 1971, under the supervision of the United Nations Commission on Human Rights.

(3) the Government of North Vietnam

and all other governments with military forces in South Vietnam likewise commit themselves to withdrawing their forces by a date certain of November 30, 1971, this simultaneous withdrawal to be supervised by a United Nations Military Observer Group.

SEC. 2. It is further the sense of the Congress that immediately upon the final exchange of all prisoners of war, all United States forces in South Vietnam should withdraw to the perimeters of those cities or military installations which the President shall define, and shall not engage in any ground action or ground reconnaissance thereafter.

SEC. 3. It is further the sense of the Congress that matters concerning the placement of refugees in Indochina should be referred to the United Nations Commission on Human Rights and that the supervision of elections in the Republic of Vietnam and the procedures for negotiating a final peace settlement between the governments of North and South Vietnam should be referred to the Security Council of the United Nations in accordance with the provisions of the Charter of the United Nations.

SEC. 4. No provision of this Resolution shall be construed in such a manner as would infringe upon the duties and powers of the President of the United States as Commander-in-Chief, nor upon his power to make treaties by and with the advice and consent of the Senate pursuant to Article II, Section 2, of the Constitution of the United States.

THE ROLE OF CONGRESS

The SPEAKER. Under previous order of the House, the gentleman from Florida (Mr. CHAPPELL), is recognized for 60 minutes.

GENERAL LEAVE TO EXTEND

Mr. CHAPPELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today, and to include therein extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CHAPPELL. Mr. Speaker, after a crushing battle, Napoleon cried out to his young drummer boy:

Beat a retreat! Beat a retreat!

The young drummer boy stood stunned, awed, and confused. Napoleon again commanded:

Beat a retreat!

The drummer boy replied:

But sir, I don't know how—you have never taught me to beat a retreat.

Cried Napoleon:

Then sound a charge!

Quick was the response. Napoleon's soldiers rallied to the charge and another great victory was his.

It is not my intention here to labor the preference of a retreat or a charge in the course of our present engagement in Vietnam, but rather to sound the charge for unity in a nation divided. Certainly, the need for American solidarity was never greater than it is today. Our Nation totters on the brink of despair in its effort to understand America's involvement on another soil 10,000 miles away in a war we have never chosen to win.

Our youth are frustrated from battle stagnation and too often have turned to the fantasy of drugs. Thousands of mothers have cried in their despair at the burial of their sons, lost to battles they were not permitted to win. Rebellion has sounded in the mass patter of feet attuned to the divisive mechanics of our international enemy.

This problem plagues the citizens of our Nation daily. Letters pour into my office each day revealing the anguished scars this war is leaving on our people. Too many young people regard our process with skepticism and our military system has suffered tremendously in both prestige and morale. Our people ache to see this matter settled. Some of our young people resort to radicalism, and our military system has been cheapened as a result of our involvement. Thousands of our comrades live among us as maimed and disfigured reminders of the horrible sacrifices of war. God forbid that history shall ever record those as symbols of a vain and ill-reasoned season of conflict.

Neither praise nor condemnation of actions, past or present, but rather their unforgettable lessons, will avail us to a sensible direction for the future. One such lesson is that no government dare commit its people to prolonged armed conflict without a clear definition of the purpose of such commitment and the will of the people to pursue them to victory. How, then, do we implement the lesson? We best do so by clearly defining the respective responsibilities of the President and the Congress with reference to the constitutional power to make war. The proposed resolution before us, I believe, is a reasonable approach to such implementation.

This resolution in no way alters the President's power to initially engage our forces to repel a sudden attack or to protect American lives and property. It simply requires the President, within 72 hours of committing any of our armed forces to action in any armed conflict outside the United States, to report such commitment to the Congress. If the Congress shall fail to approve or otherwise act on such report, within 30 calendar days after receiving it, the President shall within the next succeeding 30 days terminate such commitment and disengage all forces so committed.

This is no new concept. Many similar proposals have been made. Nor does this proposal overstep the intent of the framers of the Constitution and the thoughtful declaration of many great Americans after them.

Article I, section 2, of the Constitution states that the Congress shall have the power to declare war, to raise and support armies, to provide and maintain a Navy, to make rules for the Government and regulation of the Armed Forces, to provide for calling forth the militia, to execute laws, suppress insurrections and repel invasions, to provide for organizing an army and disciplining the militia and to make all laws necessary and proper for executing the foregoing powers. Article II, section 2, of the Constitution states that the President shall be Commander in Chief of the Army and Navy.

The framers of the Constitution were very deliberate in balancing the powers of this Government and those of the Congress and President, and they were deliberate for excellent reasons. All too frequently the American colonies were drawn by the King's decree into England's wars. The leaders of the newly independent Republic resolved to make certain that their new country would never again be drawn into war at the direction and discretion of a single man. For this reason, it transferred the war power to the legislative branch of the newly created Government. Indeed, the framers of the Constitution recognized that the President, under certain circumstances, might have to take defensive action to repel and subdue a sudden attack upon this great Nation. But that was the extent of the warring power they were willing for him to exercise. The intent of the framers is made quite clear in the proceedings of the Constitutional Convention and in the subsequent writings of our Founding Fathers. Thomas Jefferson, in a letter to James Madison, back in 1789 said:

We have already given in example one effectual check to the dog of war by transferring the power of letting him loose from the executive to the legislative body, from those who are to spend to those who are to pay.

Pursuing this same line of thinking, Alexander Hamilton, who generally favored extensive Presidential power, nonetheless wrote:

The President is to be Commander in Chief of the Army and Navy of the United States. In this respect his authority would be nominally the same with that of the King of Great Britain. But in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the confederacy, while that of the British King extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature.

When, in 1846, President James Polk sent American soldiers into the controversial territory of Texas, marking the beginning of the Mexican War, Abraham Lincoln was just a young man in the House of Representatives in the State of Illinois. Lincoln felt that the President had acted unconstitutionally, and he said:

Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so, *whenever he may choose to say* he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix *any limit* to his power in this respect, after you have given him so much as you propose . . .

I deeply believe that the Constitution is a living document. The Congress of the United States must activate its responsibilities under this document for determining war and peace. Although I have been a Member of this distinguished body for a very short time, I have for 10 long years watched the shadow of a war creep over the mood of this land. I feel most profoundly that had Congress either declared or refused to allow our

involvement in Vietnam at its outset, a clear-cut attitude would have been established and the national hurt of our people avoided.

The United States is the leader of the free world today; but this is not so because our citizens are anxious that we take the lead in military battles; nor because our diplomats are the most expert; nor because our policies are faultless or the most popular. The mantle of leadership has been placed upon our shoulders not by any nation, nor by our own Government or citizens, but by destiny and circumstance—by the sheer fact of our physical and economic strength, and by our role as the only real counter to the forces of communism in the world today. If events in Indochina have taught us to better fulfill that role, then it is not a wholly dark story. And I want to emphasize that this resolution affects in no way our present involvement, but that the mistakes of the past must be heeded in the future.

Will we take today a giant step for unity tomorrow? We must do no less.

Mr. Speaker, we in the Congress have the power to assure the American people that never again will we allow a situation like Vietnam to occur. We can begin to unify this Nation for the future by the adoption of this resolution and assuring our people that we will totally uphold the Constitution. Let us play the part our forefathers intended in the delicate exercise of the warring power.

Mr. MATSUNAGA. Mr. Speaker, will the gentleman yield?

Mr. CHAPPELL. I am glad to yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Speaker, I wish to congratulate the gentleman in the well for introducing the resolution which he has introduced. I am in full support of his resolution. I think it is high time that the Congress did exactly what the gentleman is proposing.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. CHAPPELL. I am glad to yield to my distinguished colleague from Florida.

Mr. PEPPER. Mr. Speaker, I also want to join in commending my distinguished colleague from Florida and my able friend for taking the initiative in offering this resolution. I think it touches one of the most critical issues facing the American people today.

It simply seems to me unthinkable that anyone would ever assume that any of the Founding Fathers when they were writing the U.S. Constitution would ever in their wildest imagination contemplate the possibility that the President of the United States would ever assume—and I am not talking about any partisanship in the matter—that under the authority vested in him under the Constitution he had the power, the lawful power, to commit more than one-half million men of the armed services of the United States to a protracted war costing hundreds of billions of dollars and lasting over a period of years on the other side of the world, and one which has caused a great many casualties and immense danger to the country and dividing the country as most conflicts do.

Mr. Speaker, it seems to me we have got to come to some sort of delineation of the power of the President and the power of the Congress.

It seems to me it is clearly evident from the central and clear language of the Constitution that while the President has authority to move the Armed Forces wherever he wants to, whenever he wants to move them, and in addition to that the President has the clear authority and the duty to take promptly such steps as may be necessary to defend the United States against an attack, or to be prepared to defend the United States against a threatened attack—and no one questions that almost unlimited authority in the Chief Executive of our country, but beyond that, beyond meeting an emergency situation and repelling an attack or protecting the lives and the liberty and the property of the citizens of the United States where they may be in jeopardy somewhere in the world, which is also an authority which the President has the duty to discharge under the Constitution without any reference to Congress, it is clear that the President not only has the right and power but the duty to act to protect the lives, liberty, and property of the people of the United States.

But, Mr. Speaker, to go beyond that and say that it is a part of the Presidential prerogative to send an army of over one-half million men to the other side of the world or somewhere else, or to any other continent outside the United States, and engage in what everyone knows is war, without a declaration of the Congress, without a commitment on the part of the Congress to that conflict—and that is the important thing—does the Congress of the United States authorize the commitment of the Armed Forces of the United States to that kind of conflict? This is where that authority has to emanate and that activity must be in consonance with the Constitution of the United States.

If you concede that the President has the power to order troops anywhere he wants to in exercising the limits of his prerogatives and say, "All right; you, Congress, I have sent these troops to *x* country or *x* continent and I have the authority under the Constitution to send them, if you do not want to supply them the arms and furnish them with the necessary supplies and ammunition, that is up to you."

"I am going to send them there, because I am the Commander in Chief."

Now, nobody conceives that that is fairly asserting the Constitution of the United States or a fair interpretation of the prerogatives of a chief magistrate of our land under the Constitution or a fair reference to the proper authority of the Congress of the United States. This Government of ours is a tripartite system of government. All of the branches must work together in comity with one another in reciprocal respect for its government functions. The Supreme Court could declare everything that we do unconstitutional if they just wanted to exercise power. On the other hand we could refuse to pay the Justices of the Supreme Court, refuse to give them the buildings

in which to hold their functions, refuse to supply them with any assistance, refuse to carry out any of their orders. We could do the same thing to the President of the United States.

On the other hand, the President of the United States could say, as he has done recently in respect to a good many of our appropriations, "I am just not going to spend this money, I am going to stop the Florida Canal," that my distinguished friend, the gentleman in the well, is so very much interested in, and in which I have been very much interested for a long time. Congress deliberated over it for years. Congress enacted into law the provisions to build it. Congress provided the money. And without the slightest consultation with the Congress of the United States, the Chief Executive said, "It stops right here."

Now it does not seem to me that that is a proper regard for the authority and the duty and the responsibility of the Congress of the United States. The President could do that with every bill we pass if we did not have a two-thirds majority to override his veto, or unless we impeach him, he could just do it anyway. He could say, "I will not enforce any of the laws of Congress or any of the decrees of the Judiciary of our country, because I am the one vested with that discretion."

The exercise of that kind of untrammelled power would, of course, wreck the system.

Further, I am not talking about straining the limits of the power conferred upon the respective branches of the Government by the Constitution, I am talking about the proper authority that can be exercised with due respect and regard for the comity and the obligations of reciprocal respect that one part of the Federal Government, our tripartite Government, should always extend to the other.

So now we come to the time in our country when the war may lead into a catastrophe that would absolutely destroy our country. Take the Korean war, or the kind of war that is now involving Indochina, each one of these wars, never declared by the Congress, could have led to war with China or war with Russia, and that kind of war might lead to nuclear war. I believe it has been estimated by those knowledgeable in the subject that in the first strike of nuclear power against this country 100 million people would die.

And so when anyone purporting to act for the United States of America makes a commitment to an armed conflict, it may lead to nuclear war in our time and in our days.

So the representatives of the people have every right to be deeply concerned about the chief magistrate committing our forces to a conflict which may lead to an all-engulfing and all-devastating war destroying our very land and our people and making it unsuitable for habitation for the foreseeable future.

I do not know the answer to this problem. I think the able gentleman in the well, and my distinguished friend, has made a very valuable contribution in the language that he has offered, and at least he is working in the right direction that Congress and the President should work

together, to delineate the respective authority of each other. And we should have an understanding and a respect for our obligations to each one and to the other. Also, the people's representatives, the Congress, cannot stand idly by and say, "We are impotent, there is nothing that we can do."

Well, as the law now stands, what we can do is cut off the money, then the President could just say, "I have got the power, if you do not want to pay them, it is up to you."

There must be a better way so as to have an understanding which will establish what the authority of the President is, and what the responsibility of the Congress is, and it may have the immeasurable value of contributing toward the preservation and the well-being of the people of this happy and great land of ours.

So, Mr. Speaker, I congratulate the gentleman in the well for the leadership he has given in this most worthy cause.

Mr. CHAPPELL. I thank the gentleman from Florida for his remarks.

I would like to make it perfectly clear that there is nothing in this resolution which intends to take away from the President the power to protect the people and the property of America. There is nothing that intends to take away from his present power to engage us, but rather having engaged us, to give the opportunity for Congress to act as I believe it was intended under the Constitution.

Indeed, if the President has engaged us in something so unpopular that the majority of the Congress is unwilling to back him up on it, then it appears to me that is the sort of thing we ought not to be in in the first place. I believe we can keep our people together in unity by this kind of approach.

Mr. STEPHENS. Mr. Speaker, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Georgia.

Mr. STEPHENS. Mr. Speaker, I would like to congratulate the gentleman from Florida for taking the lead in offering this constitutional amendment. I want also to thank him for giving me the privilege of cosponsoring it with him.

I believe that what we are trying to say in this resolution by a constitutional amendment is that never again should America get into a war without it being declared by Congress as a war. I think the difficulty we have had with the present conflict is because of the fact that we have gotten into a war without calling it a war. We have gotten into this conflict without making a declaration of war by the Congress and it has been compounding the difficulties that we have had.

I want to tell you again, I appreciate your taking the lead in offering this resolution so that in the future we can avoid having such things happening again. As the distinguished gentleman, I believe, from Dade County, Fla. (Mr. PEPPER), said:

We are saying in a measure that the President of the United States is sending our armed forces many places and the only thing we can do is to say—leave them over there.

You know that happened when Theodore Roosevelt was President of the United States. After the Spanish American War, Theodore Roosevelt said that he wanted to send the U.S. Navy around the world to impress the world with the power of the U.S. Navy. The Congress of the United States would not do so. He told the Congress:

I have enough money left in the till of the presidential budget to send the Navy half way round the world and I am going to do it. If you want them back—you bring them back.

This could avoid that very circumstance that the gentleman from Florida (Mr. PEPPER) puts his finger on. Again I congratulate my colleague and others who have cosponsored this with him.

Mr. CHAPPELL. I thank the gentleman.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman.

Mr. SEIBERLING. I thank the gentleman from Florida for taking this nettle firmly and coming up with what is a very simple and direct resolution which really grasps at the essence of this problem.

There have been several other resolutions offered and while I have been very deeply concerned about this constitutional issue, in fact, if it were not for the concern I have about the erosion of the power of the Congress to the executive branch, I probably would not have been enough motivated to even run for Congress.

I would just like to ask the gentleman one question about the actual language of this resolution.

It says that except during the period of war declared by the Congress or a period of national emergency declared by the Congress.

Now the question of "national emergency" it seems to me may raise a possible loophole here because it does not spell out that it would be a national emergency, the particular situation which may give rise to hostile activity.

I am just wondering whether the gentleman, if this resolution starts to work through the appropriate committee, would be willing to consider tightening it up where it seems desirable and, particularly as to this particular part that I referred to.

Mr. CHAPPELL. I would be delighted that that be done. As a matter of fact, I certainly and I do not believe any of the other cosponsors are wedded to any particular language. I think what the gentleman suggests is good and I think if we concur, we are in the right direction and all of us can work together to improve the language and do that which we intend to do.

I see the point that the gentleman makes. I think it is a valid one. I think it could very easily be clarified, and if he has some wording that he suggests on it, I would be very pleased to have it.

Mr. SEIBERLING. The resolution has only just come to my attention while listening to the gentleman's very able presentation of it. If the gentleman would have no objection, I would be happy to associate myself with it as a

cosponsor, with those remarks being kept in mind. I would also be happy to study it and come up with some recommendations so that when we get to the process of final drafting, perhaps we can tighten it a little bit.

Mr. CHAPPELL. I would certainly welcome that, Mr. Speaker.

Mr. WYATT. Mr. Speaker, will the gentleman yield?

Mr. CHAPPELL. I am happy to yield to the gentleman from Oregon.

Mr. WYATT. Mr. Speaker, I have listened with interest to the gentleman's proposal. I have been aware, of course, of some proposals that have been made that have been similar, but not one exactly on this point.

I had a question that has occurred to me, because it seems to me that during the past two decades we have had this problem a great deal more than in the past. I would wonder if the gentleman would venture an opinion if, going back to July 1950, when Mr. Truman made the decision to go into Korea and into the defense of South Korea, and then again in the spring of 1965, when the escalation began in a big way in Vietnam, if the gentleman's resolution had been adopted and made part of the basic Constitution of the land, would the gentleman feel that the subsequent actions in those 2 years would be clearly prohibited under the language of the proposed amendment?

Mr. CHAPPELL. Is the gentleman asking me whether it would touch any of the circumstances presently under consideration?

Mr. WYATT. No; I am asking whether or not the decisions that were made on those two occasions would be possible in the future if the amendment had been enacted into law.

Mr. CHAPPELL. No; I do not think this situation would be possible. I do say, however, that had the then President called to the attention of the Congress specifically what his commitments were in that regard, the Congress would then have acted, and had he been able to display the necessary arguments for it, Congress would have accepted it, and having accepted it, would have drawn the American people more clearly behind that kind of activity. I have abhorred the idea of this country involving itself in a war of any sort which it is not willing to win. One of the greatest frustrations of our youth today is to teach them at home that if they are going to get involved in an argument, they should do so with the determination to win. If they did not intend to win, they should not get involved. Indeed, do not get in unless you intend to win. Then when we get into an armed conflict, a really truly great conflict in which their lives are at stake, we do not attempt to win.

I think that this kind of resolution would have us determine early that if we are going to get into any kind of involvement anywhere in the world, that we get in there with a determination and a clear-cut policy to win or to stay out.

Mr. WYATT. Mr. Speaker, will the gentleman yield further?

Mr. CHAPPELL. I yield to the gentleman from Oregon.

Mr. WYATT. As I understand it, the

gentleman's opinion is that if the amendment the gentleman is proposing had been law in either of these two situations, it would have forced the Congress to speak, in other words, and to speak early on the subject.

Mr. CHAPPELL. Exactly.

Mr. WYATT. By way of an advisory action for the President of the United States.

Mr. CHAPPELL. I think it would strengthen the President's hand. I want again to make it completely clear that this is not intended to take away from the President any of his constitutional powers. Incidentally, this is not offered as a proposed amendment to the Constitution, but rather as a clarification of responsibilities under the Constitution as presently written. I believe that had we had this kind of resolution in some of the circumstances which have happened, the President's hand would have been strengthened and strengthened early. If we were to get into that kind of conflict, then the Congress would be behind it. They have made a very clear-cut commitment. They have specifically said what his powers shall be with respect to this particular engagement, and having done so, we have a better chance of getting the American people behind it and getting rid of those things which have caused so much disunity, particularly in recent times in this Nation.

I thank the gentleman for his comments.

Mr. HENDERSON. Mr. Speaker, I have consistently refused to affiliate myself with resolutions which would establish deadlines and datelines for withdrawal of our troops from Vietnam. Once we committed ourselves to the cause of guaranteeing the peoples of the South their right of self-determination, and Congress further passed the Gulf of Tonkin resolution, the question of whether we should ever have gotten involved become moot.

And having committed ourselves and spent as much in American lives and treasure as we have, we certainly should not withdraw on an announced timetable which will destroy any possible incentive for the enemy to negotiate, lessen our prospects for freeing our prisoners, jeopardizing the safety of our forces during the withdrawal period, and making it easier for the enemy to plan his strategy.

But we are talking today about something else entirely. We are talking about laying down some workable and realistic guidelines for the future. We are talking about preventing us from future involvement in "undeclared wars" which can take on the nightmarish proportions of Vietnam.

This resolution is not an unreasonable one. It will not apply to Vietnam or to any armed conflict in which we are already engaged. It applies only to situations which arise hereafter.

Those of us who are cosponsors of this resolution believe that it will effectively prevent the United States ever again from engaging in a massive commitment of men and materials outside the United States in a manner and situation which is not wholeheartedly supported by the people of the United States.

Our resolution reads as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That except during the period of war declared by Congress or the period of a national emergency declared by Congress, if any unit of any armed force of the United States is committed to action in any armed conflict with hostile forces outside the United States, the President, as soon as practicable after any such unit is so committed but not later than 72 hours after initial commitment, shall report in detail to Congress his reasons, for and his evaluation with respect to the effect and duration of, such commitment. If the Congress, within thirty calendar days after receiving such report, shall not by concurrent resolution approve or otherwise act on said report, such commitment shall immediately terminate, and the President, as soon as practicable but not later than thirty calendar days after such termination, shall disengage all forces so committed.

This resolution shall not be construed to apply to any armed conflict in which the Armed Forces of the United States are engaged on the date this resolution becomes effective.

Mr. SIKES. Mr. Speaker, let me first extend to my distinguished colleague from Florida and my very close friend, Mr. CHAPPELL, my earnest congratulations on the resolution which he has introduced to reestablish the constitutional prerogatives assigned to the Congress in the matter of a declaration of war. I am glad to be a cosponsor. The Constitution assigns only to Congress the awesome responsibility of a declaration of war, yet we find ourselves heavily engaged for the second time in a generation in a war through Presidential action and not by act of Congress. It is entirely possible that much of the distaste which has become associated with our current involvement in Indochina arises from the fact that the representatives of the people, speaking for the people, did not in fact commit us to this engagement.

War in all its aspects is a grievous and destructive business. There must be national will and spirit which supports the war and is convinced of its justification. The current war has been fought without a genuine effort to acquaint the American people with its justification or its requirements. There should be no other wars which do not fully reflect the spirit and determination of the American people to see a cause through to a victorious end.

The Tonkin resolution came before this body after we were in fact committed in Indochina. It gave the President broad authority to send American troops into battle on foreign soil, but it was not a declaration of war. We have good cause for our involvement in Indochina, but we backed into it rather than facing up to all aspects of the responsibility and the magnitude of the task.

A President should not have power unilaterally to commit our Nation to war. This is a responsibility which belongs to the Congress and the President should take the Congress into his confidence in all aspects of an international problem before asking such a commitment. With the adoption of the resolution now before us, the Congress will again be required to accept its own responsibility and, as spokesmen for the people, to commit our Nation. If the resolution accomplished

nothing else but this, it would be worthy. But it does more.

It serves notice on the entire world that the American policy of nonaggression is written into the law of the land. The resolution directs that no President may ever send American forces to a foreign land for purposes of armed conflict without having to stand before the Congress and the world and justify his actions.

This resolution, if adopted, will be unique in the universe. I know of no other nation which has either the strength or the courage to act as we now have the opportunity to act by adoption of this resolution. It will support, by congressional action, the policies which have been laid down by nearly every administration for almost 200 years.

This resolution will serve notice on the enemies of freedom that America and America alone has adopted, and written into law, a provision preventing any President at any time from engaging in war without congressional action. It is entirely possible that this will prevent reckless adventures in future years.

And so, Mr. Speaker, I support this resolution. It will place the responsibility of war or peace on the Congress where rightly it should rest, and it will serve notice on the world that the United States truly seeks peace for mankind.

Some critics will argue that the resolution places undue restraints on the President's power to defend the Nation. I disagree with the critics on this point.

It allows the President the same freedom to act as he now has. There is nothing in the resolution which prohibits the President from instant reaction to a threat.

The only restriction on the President is that he would be required to bring his rationale before the Congress within 30 days of his action and to justify his action. Is this too much to ask of a President?

I think not.

Some might argue that the Congress cannot act with sufficient dispatch to grant a President's request that troops be allowed to remain in a given situation. Those who argue this point must somehow be overlooking the events of December 1941, when Congress acted within hours, not days.

No, Mr. Speaker, there is no good reason why this resolution should not be adopted. To the contrary, there is every legitimate reason why the Congress should act favorably on it.

This resolution will place the Congress in its proper role and will serve notice on the world that American Presidents, while restricted from reckless adventures, may act within minutes to meet aggression wherever it appears.

Mr. FUQUA. Mr. Speaker, I want to thank my colleague and friend from Florida for bringing this important matter to the attention of the House.

It is clearly the responsibility of the Congress to declare war under our Constitution.

In the turbulent period in which we live, we have seen this Nation engage our Armed Forces in lands in this hemisphere, the Middle East, and Asia. No

matter how laudable the intent of any President, this is a dangerous precedent.

Those who first engaged our forces in Vietnam could not have known the horror that would be visited upon this Nation as the result of that decision. We have spent billions upon billions of dollars—had our finest young men maimed and killed—in a war we refused to win.

For one, I am tired of American soldiers being used for target practice. There is nothing humorous about war. It is sheer unmitigated hell.

In Korea and in Vietnam, we have not had the courage as a nation to fight to win—to make a total national commitment as we did in two world wars. Our Nation has been rent asunder by those policies.

Certainly it is easy to look back and look wise. There is nothing that I nor anyone else can do about what has gone before.

But there is a great deal that you and I can do about the future. This resolution, in my opinion, does two things. It makes it clearly the sense of the Congress, as the elected representatives of the American people, that we feel that our Nation has erred in the policies which it has followed.

Second, it would reassert the constitutional prerogatives given to the Congress and which we have allowed to erode.

This resolution takes into consideration the fact that a President may have to act in extreme emergencies. This resolution in no wise affects his being able to discharge that responsibility.

I believe firmly that this resolution is in the best interests of our Nation in the future and urge that it be adopted at the earliest possible moment.

Mr. DULSKI. Mr. Speaker, I am happy to join with the gentleman from Florida (Mr. CHAPPELL) in his joint resolution relating to the war power of Congress.

This is a matter which has been of continuing concern to me over a long period of time, and I believe it is essential that the Congress act to clarify the war power of Congress.

In this connection, I would like to call the attention of my colleagues to a very interesting editorial which appeared in the May 13 edition of the Buffalo, N.Y., Evening News, as follows:

CLARIFYING THE WAR POWER

Ever since President Johnson began the great escalation in Vietnam, with the Tonkin Gulf resolution providing the main cover of legality, a growing cross-section of congressional leaders has been seething in frustration over the Chief Executive's assumption of a war-making power which the Founding Fathers' intended to repose in Congress.

While the effort to retrieve some semblance of this lost, strayed or stolen power has found its greatest support among Senate doves—with New York's Sen. Jacob Javits coming to the fore in recent months as the most articulate exponent—this movement is now immeasurably enhanced by the support of a leading southern hawk, Sen. John Stennis (D., Miss.).

Actually, the aggrandizement of the President at the expense of Congress in this vital war-making area is part of a generations-long pattern which, in the thermonuclear age, could not possibly be reversed in any ultimate sense. Obviously, we cannot

have 531 thumbs on the nuclear button; the President must be free to confront any instant challenge to our survival with whatever emergency actions he deems necessary.

But this is not the kind of challenge we faced in Korea or now face in Vietnam, Cambodia and Laos, where this nation has waged prolonged war under presidential direction without either a congressional war declaration or specific congressional regulation of its conduct. Not only that, but the President takes it for granted that he alone has the power to wind the war up or down, widen it or narrow it, continue it or end it—just so long as Congress keeps supplying the money and refrains from imposing any absolute restrictions.

The Javits resolution, which Sen. Stennis' proposal seems to echo in most major respects, would authorize the President to commit our armed forces under four specific conditions: (1) to repel a sudden attack on the U.S.; (2) to repel an attack against U.S. armed forces on the high seas or abroad; (3) to protect U.S. lives abroad, and (4) to comply with a specific treaty or other formal national commitment.

But whenever such hostilities have been initiated, the President would be required to give Congress a full and prompt account of the circumstances, and, in the absence of a declaration of war, he would be prohibited from sustaining the hostilities beyond 30 days except as Congress may provide by law. To make sure that the whole Congress could act on such war-sustaining legislation within the 30 days, the resolution gives it a special priority guaranteeing it prompt committee clearance and a vote in each house within three days thereafter.

The only point on which Sen. Stennis seems to differ with this approach is that he would explicitly exclude any application to the Indo-China war. On this point, Sen. Javits said in his interview with *The News* this week that his proposal, while not retroactive and therefore not intended to apply in Vietnam, nevertheless could apply there, too, if hostilities involving American troops should be renewed after they had ceased. But that is a relative quibble compared with the broad constitutional purpose of redefining the war power in a context relevant to this dangerous age.

We think the Javits resolution does accomplish this in a most effective way, and we are impressed by the caliber of the many constitutional authorities who agree that it will help restore the balance intended by the Founding Fathers. The fact that the President must have untrammelled authority to act in bona fide emergencies does not, in our judgment, justify the waging of prolonged hostilities in the absence of either a formal declaration of war or a specific act of Congress. It is time that the basic constitutional responsibility for keeping this nation at war be put, as Sen. Stennis says, "where it belongs, on the people's representatives."

Mr. MATSUNAGA. Mr. Speaker, will the gentleman yield?

Mr. CHAPPELL. I would be happy to yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Speaker, I would like to congratulate the distinguished gentleman from Florida (Mr. CHAPPELL) on his efforts to formulate legislation that will clarify the war powers of Congress. At stake is the most important issue faced by any nation, the fateful issue of peace or war.

No matter how one feels about our present involvement in Indochina, we all recognize that the war has torn us apart as a people. Certainly, one of the major underlying causes for this divisiveness is the lack of a clear commitment to our national will by the group closest

to the people—the Congress of the United States.

If we have learned but one lesson from the tragedy in Vietnam, I believe it is that we need definite unmistakable procedures to prevent future undeclared wars. "No more Vietnams" should be our objective in setting up such procedures. The time for Congress to take this action and to reassert its constitutional role is long overdue.

Five times in the past 10 years, Mr. Speaker, Presidents have mounted major military interventions without prior consultation with the Congress: the Bay of Pigs, the intervention in the Dominican Republic, the bombing of North Vietnam, the incursion into Cambodia, and then Laos.

Whatever our individual beliefs may be, relative to the merits of these unilateral actions by the Executive, we ought to be able to agree that Congress should have had a significant role in the decision to mount each of these actions.

What was it that the framers of our Constitution had in mind when they gave exclusively to Congress the power to declare war? To declare war is to decide on war, to declare it as a national policy. It was intended that after the Congress had decided to depart from the normal state of affairs and declare war, and only after such declaration, the President, as Commander in Chief, was to exercise the power to conduct or direct the war.

One of the strongest advocates of Executive power, Alexander Hamilton, writing in Federalist No. 69, wrote that the President's authority as Commander in Chief "would amount to nothing more than the Supreme Command and direction of the military and naval forces, as First General and Admiral of the Confederacy."

Distinguished historians have already assembled overwhelmingly convincing evidence on this matter, evidence which points inescapably to the conclusion that the Constitution envisions the Congress as the sole and exclusive repository of the power both to declare war and judge its propriety.

But now, Mr. Speaker, we are told that such a view of the warmaking powers of Congress is hopelessly archaic. We are told that we live in a world of instantaneous communication, where momentous decisions need to be made in less time than it takes to complete a quorum call. Perhaps, so. But there are two compelling responses to that argument:

First, there is little precedent for such a view historically. I invite the Executive or its supporters to produce one example where the use of the warmaking powers by the President, without authority of Congress, was required by the nature of the emergency faced by the Nation. As sudden and unexpected as the attack on Pearl Harbor was we went to war after its declaration by Congress.

Second, if we are speaking of an unprecedented, unspeakable surprise attack, one which the President could not reasonably have anticipated, the resolution which the gentleman introduced and which I proudly cosponsored, covers such a contingency quite adequately. Under its provisions, in a dire emergency, the President need not come to Congress

for authority to repel an attack or to save American civilian lives abroad; he can act, and then forthwith request the needed authority from Congress. His hands are not tied at the crucial moment. But he must convince the Congress, within 30 days after he acts, of the rightfulness of his unilateral action. I submit that that is not an unreasonable duty to impose.

Mr. Speaker, it is my sincere belief that the distinguished gentleman from Florida (Mr. CHAPPELL), by taking the initiative in this matter, is serving the cause of peace, and helping to reestablish the rightful constitutional role of the Congress in the warmaking process.

Mr. Justice Jackson once wrote words that are timely and relevant to the issue we are discussing today. He wrote:

We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers.

And that, Mr. Speaker, is the very essence of the war powers resolution.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

The 1970 National Power Survey, just completed, predicts an extraordinary growth in nuclear generation. By 1990, nuclear generation is expected to account for 40 percent of generating capacity and about 55 percent of thermal electric energy requirements, an increase of more than 80 times the generation of electric power by nuclear plants estimated for 1970.

MEDEX—AN ANSWER TO THE DOCTOR SHORTAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 10 minutes.

Mr. ROSENTHAL. Mr. Speaker, there is an undeniable shortage of trained physicians in this country. Many communities across the Nation, including an estimated 150 counties, have no doctor at all. The doctor shortage is most pronounced in our urban ghettos and our rural areas.

It has been said we need 50,000 physicians right away, plus 150,000 medical technicians and 200,000 nurses.

Yet despite these needs we are letting thousands of trained persons slip away each year because we fail to recognize their value and take advantage of their training.

I am talking about the thousands of medical corpsmen discharged each year by the armed services. American taxpayers have invested up to \$20,000 in training each of these persons, yet we have generally failed to transfer that training, skill, and dedication into fulltime civilian value.

Something finally is being done. Sid

Ross and Herbert Kuperberg write about it in the current issue of Parade magazine.

Former Army "medics" have made the transition to "Medex," the first new health professional in family medicine in the 110 years since the founding of modern nursing. These young men are not doctors, but they are trained to handle emergencies and perform basic medical jobs. They help alleviate the shortage of doctors by freeing physicians for the more demanding tasks requiring their special attention.

I long have been an advocate of developing new and innovative programs for allied health manpower. Medex is one of those programs. The article that follows tells more about it:

[From Parade, May 23, 1971]

THE "MEDEX"—ONE ANSWER TO THE DOCTOR SHORTAGE

SEATTLE, WASH.—Fourteen men, wearing light blue medical jackets and carrying medical bags, may hold one of the keys to solving the nation's shortage of physicians. They are not doctors, but they're the next best thing—trained personnel who know how to deal with emergencies, perform basic medical tasks, and meet on-the-spot needs of patients.

They're called "Medex," and they represent the first new health professional in family medicine in 110 years, or since Florence Nightingale founded modern nursing. The 14 Medex, now completing their first year's work largely in rural areas of the State of Washington, are all former military "medics"—medical corpsmen who have undergone special intensive training to adapt their military medical skills to civilian needs and situations.

MORE ON THE WAY

Thousands of medical corpsmen are discharged from the services each year. Most have gone into completely unrelated fields in civilian life, thus wasting their years of medical training, obtained at a cost to the U.S. taxpayer up to \$20,000 per man.

So successful have the first Medex been in bringing improved health care to patients in small towns and communities in Washington that plans are in operation to train 225 more for work in the Pacific Northwest by the end of this year.

The man who started the whole thing, Dr. Richard A. Smith, associate professor of health services at the University of Washington, confidently predicts: "With a little more experience under our belts, we feel that it will spread to all 50 states."

OTHER PROGRAMS

Other programs are also underway to obtain skilled assistants to meet the medical manpower shortage. At Duke University in Durham, N.C., for example, the "Physician's Associate Program" gives advanced training to ex-military medics, nurses, X-ray technicians and others over a two-year period. Most of this program's graduates today are working for physicians in hospital and institutional settings. Others are employed by doctors in private practice.

The Medex system gives its applicants three months' intensive training plus a year's apprenticeship with the doctor for whom he is going to work.

What does a Medex do?

Basically, he shares a doctor's workload by taking over many routine but essential medical tasks. He gives simple physical exams, takes case histories, treats cuts and minor injuries, changes dressings, administers injections, handles casts and sutures. He assists the doctor during surgery. He goes out on house calls. He's available 24 hours a day. In this part of the country, at least, he has gained the full confidence of patients and the enthusiastic approval of doctors and

public health officials. "It's like having a third arm," says one busy physician.

Every Medex is part of a two-man team consisting of himself and a full-fledged doctor. They always work closely together, with the Medex calling in the doctor whenever any question arises, or when the case requires anything but basic treatment. The doctor keeps a supervisory eye on the Medex's treatments, and constantly reviews his work. The Medex is on the doctor's personal payroll, earning a salary of \$8,000 to \$12,000 a year.

To see firsthand how the Medex have worked out after their first year in action, Parade visited two small rural communities in north central Washington. One is Tonasket, with a population of 1000, where Medex Mark A. Patterson works for Dr. Vernon Kinzie, a 57-year-old native of Indiana who has been practicing in Tonasket for the last 24 years. Like many other rural general practitioners, Dr. Kinzie was finding himself overwhelmed by the number of patients calling for his services, and the wide geographical area he had to cover.

EASING THE STRAIN

"I took Mark on because I needed him," says Dr. Kinzie. "A Medex is one of the best ways of helping a doctor in rural practice. I wanted to ease the strain on me, and I wanted to see more patients and give better service. I did a survey recently and found that we were seeing 100 to 125 more patients a month. Financially, Mark hasn't justified his \$9,000 salary yet. My own take-home pay has decreased even though my gross is larger. But given the choice between more money on the one hand, and less stress and better service on the other, I'll take less money."

Dr. Kinzie prepared the community carefully for the arrival of a Medex, explaining his function, emphasizing his experience as a combat medic.

"Patient reaction was cautious at first," he says. "But it has worked out splendidly. A lot of my patients specifically ask to see Mark. Now that they've got confidence in him, a lot of people call him at night instead of calling me. They call him for sprains and minor injuries, or if a child is running a fever, and so on. If there are any doubts or questions he calls me immediately. He has excellent judgment, and he knows that I am totally responsible for his actions."

Medex Mark Patterson is a 29-year-old West Virginian who spent eight years as a hospital corpsman in the Navy. Like all Medex trainees so far he has a high school diploma, and he originally planned to become an X-ray technician after his discharge. He's glad he became a Medex instead. His wife Carole and his children Christine, 5, and Jay, 4, like living in a small town amid beautiful mountain scenery. He feels he has a profession with prestige and a future.

Mark sees about ten patients a day in Dr. Kinzie's office; he also makes house calls and visits hospitals. Most of his cases have been routine, but there has been life-and-death drama, too. Once a little girl who had accidentally swallowed strychnine was brought into Tonasket's small hospital. Dr. Kinzie was upstairs handling a difficult childbirth and couldn't leave, so Mark and a nurse had to treat the little girl, running up and down stairs for instructions. The treatment worked and the child was saved. But perhaps Mark's most satisfying "case" came the night that Doc Kinzie himself had an accidental fall at home and had to send for his Medex to come out and stitch up his head.

Southwest of Tonasket lies the even smaller town of Twisp, pop. 750, where Dr. William J. Henry, 42, runs the Twisp Medical Center, assisted by Medex L. Carl Chillquist, 41. Dr. Henry also has a second office in Pateros, 35 miles away, which Chillquist helps him run two mornings a week. Dr. Henry pays his Medex, an 11-year Army veteran, an annual salary of \$12,000 and says

he brought in more than that in added income.

DELEGATING WORK

Says Dr. Henry: "The whole concept makes sense. When you think of it, 40 to 50 percent of a doctor's work can be delegated. You don't have to go to college and medical school to learn to put on a cast. Actually Carl makes a better cast than I do, and I don't like doing it."

Dr. Henry sees little conflict between the job of a Medex and a nurse's role, because a Medex's experience as a military corpsman encompasses many functions a nurse never handles. Besides, says Dr. Henry, "I wouldn't do it with a nurse, but I have no hesitation calling up my Medex at 5 or 6 a.m. and asking him to go see a patient."

Some patients aren't sure how to address the Medex; some call him "Carl," others "Dr. Carl." He answers the phone with "Medex Chillquist."

Carl admits that when he began his apprenticeship period he was jittery, but says that Dr. Henry's confidence and the warm reception from the patients helped him overcome his nervousness.

Can the Medex system be extended to urban areas? Some experts believe that people in disadvantaged neighborhoods may see an attempt to foist off second-class medical care on them, and that it will take time to convince them that the truth is otherwise—as rural areas have already learned. In fact, there are already several Medex teamed up with urban doctors in the State of Washington and they are working out.

FEDERAL SUPPORT

But for the moment at least, the men in blue jackets are doing most of their work in the countryside, where more and more of them are coming into being. The U.S. Public Health Service is solidly behind the idea. It bankrolled the start of the program with a \$496,000 grant, and it's paying for current training programs at the universities of Washington, North Dakota, and Alabama, the Charles Drew Post-Graduate Medical School in Los Angeles, and Dartmouth in Hanover, N.H. Already new Medex are serving their apprenticeships in New Hampshire, Maine, Vermont and Massachusetts, as well as in Western states. At MEDEX—the organization spells its name in capital letters to distinguish it from the individual Medex practitioners—applications are pouring in, with 6000 received to date, some of them from women.

The medical profession, traditionally wary of innovations in treatment systems, has backed MEDEX enthusiastically. The most serious health problem facing the nation, says American Medical Association President Dr. Walter C. Bornemeier, is "the shortage of family doctors—the general practitioners, pediatricians and internists who provide the bulk of what we call primary care." Dr. Bornemeier is aware, as everyone else is, of the increasing difficulty of finding a doctor over a weekend or at night, the long delays and waits in doctors' offices and clinics, and all the other problems resulting from the shortage of available medical personnel. What's needed above all, says Dr. Bornemeier, is to give the doctors "a helping hand." That's what MEDEX is doing right now.

ADDRESS BY THE HONORABLE JAMES A. BURKE TO THE PENNSYLVANIA SUPERINTENDENT'S AND FOREMEN'S ASSOCIATION OF THE SHOE INDUSTRY

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

Mr. FLOOD. Mr. Speaker, the American industry which probably suffers most

under our current import quotas is that of shoe manufacturing.

Last Friday, the Pennsylvania Superintendent's and Foremen's Association and its related affiliates, all concerned with the plight of their industry, conducted a national dinner and kick-off dinner in Wilkes-Barre, the largest city in the district which I have been privileged to represent in the House.

This was a logical place to hold such a gathering, since like many other American manufacturing regions, we, too, suffer with an ailing shoe industry. The rapidly rising foreign import of shoes and leather goods has begun what many believe is a fatal decline in American shoe production, with little optimism for its future.

The principal speaker at the dinner was my distinguished colleague from Massachusetts, Congressman JAMES A. BURKE, who serves on the House Ways and Means Committee. Congressman BURKE knows well the plight of which I speak, since he represents Brockton, once among the largest shoe manufacturing centers in the world.

It is my privilege to submit his remarks:

SPEECH BY REPRESENTATIVE JAMES A. BURKE

Ladies and gentlemen, officers and members, and guests of the Pennsylvania Superintendents and Foremen's Association of the Shoe Industry, let me begin by saying that I deem it a high honor and a rare privilege to have been invited to be your guest of honor here tonight on the occasion of your Kick-Off-Dinner on the State of the Shoe Industry. Even though it is obviously a case of bringing more coals to Newcastle for an outsider like myself to come to Pennsylvania with his thoughts on the present sorry state of affairs in the shoe industry, nevertheless, the facts of life are such that it will only be through a concerted effort by Congressmen across this nation that something will be done to save what is left of this once proud industry we knew so well. So it was that I hastened to accept your invitation coming as I do from what New England used to call "Shoe City," Brockton, Massachusetts, because even though I run the risk of repeating what you already know—what your own Congressmen have told you again and again—what we have to say deserves saying again, deserves repetition. Hopefully, if the point is made often enough the rest of Congress will take notice. Above all, there is always the possibility that the Administration will listen to what is being said around the country, if it is said often enough.

If I hesitated at all in accepting your generous invitation, it was only because I feel that your Congressman, the distinguished Dan Flood, in addition to being a force to be reckoned with in Congress, is without question, the most difficult act to follow. Once my distinguished colleague has addressed himself to any subject, there is little original that can be said by anyone else. There is nothing to add. And what is more, he says it so well; he makes it so interesting; he is in fact the most eloquent speaker in a body filled with budding orators. I only hope that I do not suffer too much by comparison. The only thing I want to add is something I am sure you already know and that is that you are indeed very fortunate in having Congressman Flood down there in Washington for you and the future of the Pennsylvania Shoe Industry.

I only wish that our discussion could be more pleasant tonight. I only wish that we could look back on the statistics of the last few years and take pride in the growth of

our industry; unfortunately, the statistics tell a different story and it seems that with the release of each month's figures the news gets worse. The news must come particularly hard for Pennsylvania, ranking as it does as the nation's most important footwear producing state, producing as it does nearly 14 percent of the nation's output. As Number One, your exposure is the greatest. If the domestically produced share of the market is declining, as it is beyond question, then it follows that the state of the industry in Pennsylvania is bound to suffer. The statistics bear this out. In the past three years, Pennsylvania's footwear production has staggered from 85 million pairs in 1968 to under 77 million pairs in 1970. This obviously has had its effect on the employment figures.

And that is not the whole story either, because the shoe industry relies on tanners and suppliers throughout the state who employ additional thousands of workers. In other words, we are really talking and concerned about the whole leather products industry and there the employment figures have registered a corresponding decline over the last three years. In my own state since 1968, nearly ten thousand workers have lost their jobs and the story is the same in all the other states where present production is centered. Recently, the House of Representatives devoted two days to the discussion of the plight of the shoe industry. Congressman after Congressman from state after state rose to outline the unemployment figures in the shoe industry in their states. The most upsetting part of it all is that there is no sign that the decline had bottomed out. Time, however, is running out and if we are to salvage anything from what is left of the shoe industry, the time for discussion, debate, and talk is over. What we need is action and action *now*. Again, allow me to return to the statistics that I am most familiar with, the state of the industry in Massachusetts. From 1962 through 1970, 115 plants have closed their doors in Massachusetts. Since January of this year, six more plants have ceased production. A total of 45 plants have closed in the last three years and when the plants close, people lose their jobs and, with the sorry state of affairs they do not find jobs available in other industries. They are too busy cutting back on their work force, reducing the number of hours worked per week in a daily struggle to stay alive.

And what's behind it all? Have people suddenly stopped wearing shoes? Sure, we have hippies who apparently prefer walking barefoot through downtown traffic on the way to the next sit-down or love-in. But let's face it, however conspicuous, they are still a distinct minority. No, American shoe consumption has not declined. American shoe production, however, has. Why? The answer is imports. Why imports? Is it because the foreign product is better, better made? Is it because they are better styled? There are those on the Tariff Commission and in the Trade Negotiation Office and in the Commerce Department who would have us believe that that is the case but recent studies show that as soon as a new style comes out in this country, it is copied overseas and as soon as new styles come out overseas, they are copied in this country. It is just like popular music. A hit song in England becomes a hit in the American market in a matter of days or weeks at the most. Tastes and styles travel with the speed of lightning and the airplane today. There is virtually no style lag. America's shoe stylists do not have to take their hat off to any foreign styles. Well then, why imports? Is it because they are better made? The answer again from official government studies is that the foreign shoes may be just as well made, but no one has argued that they are in fact better made. Is it because they are cheaper? And why? And here we are

at the crux of the matter. The fact is that foreign manufacturers possess one in-calcuable advantage over their American counterparts—they can pay slave wages. They thrive in underdeveloped and developing economies. They have access to pools of the cheapest labor imaginable.

The proof of this can be seen in the shift of interest from imports from Spain and Italy to imports from Greece and going even further afield to imports from the Far East. Of such prime importance is the wage factor, Japan is finding itself undercut by cheaper labor available in Korea and Taiwan. In Korea, they have children standing on boxes to reach the machinery and are paying them six and ten cents an hour. In other words, the American worker is not only up against cheaper European labor but bargain basement Asian labor and not just adult labor but child labor and sweatshop conditions.

Every time I hear a free trader talk about the fact that American workers have priced themselves out of the world market and we need foreign imports to keep our domestic prices down, I wonder if they realize that what they are arguing for is to turn back the hands of time, wipe away all the gains the working man has made in this country over the past 50 years, and return to the days of non-union labor, child labor scandals, sweatshops, and the 72-hour work week. I don't think any responsible public office holder can advocate such a response to the threat of imports. We have struggled too long and too hard for our gains. The voters of this country long ago decided that there were times when the government had the responsibility to intervene in the economy to protect employment, to protect working standards. If this is the long-term solution of the free traders to the threat of imports, then I am advocating here and now the alternative, which is long overdue. It is time for this country to intervene in the foreign trade area to protect the American worker and curb unemployment. Everybody's talking about unemployment now.

The nation is going through one of its cyclical periods, but the shoe workers should not be misled by this concern because the economy could well be on the up-swing within a year as election time approaches and nothing significant will have been done to help the shoe industry workers. That is because the shoe workers are faced with a different kind of unemployment threat. Even in good times, the shoe industry has been forced to lay off people, so what I am saying is that what we are asking for the shoe workers is no different than what is being asked for workers in any other industry, except that the technique is different. It requires different action; it requires taking on and attacking the sacred cow of our society, free trade. I have never been able to understand how economists and liberals have advocated government action and interference in the domestic economy at every turn and when it comes to free trade, they hesitate and take the side of big business and talk about not interfering with free enterprise. Every other aspect of the economy is regulated and protected from the excesses of the marketplace except foreign trade. If laissez-faire failed on the domestic scene, why should it be regarded as the only road to success on the international scene. I am tired of seeing the American shoe worker, the American textile worker, the American steel worker, forced to pay the price with their jobs, of allowing big business to invest wherever they want overseas.

That's what the free trade movement is all about. It is the public relations arm of the giant corporations in this country who want to be free to get capital into and get profits out of whatever foreign countries offer attractive investment opportunities. When the free trade group talks about for-

eign retaliation, that's what they're talking about. They're not talking about exports. The manufactured exports of this country could be put in a thimble when you come right down to it. There are trade barriers, license requirements, specifications in practically every country in the world today, which make it almost impossible to penetrate and compete in countless foreign markets. The major ingredient in the American export statistics is agricultural commodities, not manufactured goods. What worries the big multinational manufacturing firms is not their export market, then, and retaliation in that area. What bothers them is the threat of investment barriers, increased foreign taxes, and entry restrictions which would ruin their foreign investment market.

And here's where we really get into the meat of the problem. What we are faced with today is not so much the threat of foreign competition from foreigners, but from American subsidiaries and affiliates located overseas. In other words, to make a fast buck and take advantage of cheap labor, the big American firms are investing overseas. What do they have to lose? They know the American market well, they have chains and outlets across the country, they have a force of salesmen. What they want is a cheap source of supply. They are abandoning the American worker, leaving him alone and jobless after the plants close down and rushing to some foreign town where the labor is cheaper. Our Commerce Department is working full time to help them make this move, advising them on the best locations and foreign tax loss. Our tax policies in this country allow them to manipulate their foreign earnings and income to the advantage of their shareholders. It is time that the government stepped in and in the next few weeks I intend to file legislation to tackle the problem on this front. In this, I will have the full support of the AFL-CIO, which has decided that in addition to quotas we need other approaches to solve the problem as well.

But quotas are still needed and there is no reason that any of us in this room have to apologize to anyone for advocating quotas. All the Trade Reform Bill last year would have done would have been to give the foreign exporters notice that they had to be content with their present share of our market and that in the future, they would be permitted an orderly increase based on the rate of increase of domestic consumption. In other words, all we were asking for was regulated, orderly growth of the foreign imports. The domestic market just will not take indefinitely 28 percent each year in the growth of shoe imports. It has to be slowed down for the sake of the market itself. Very shortly, foreign shoe producers will have more than 50 percent of our domestic market. What is the Administration waiting for before it acts? We are not pushing for Smoot-Hawley type tariffs and reduced quotas. I fall to see how it is asking too much to give the importers what they already have and simply ask for regulated growth in the future.

Existing legislation is hopelessly inadequate and the Administration has made it clear for all to see. Up in Massachusetts, we call trade adjustment assistance burial expenses; long-term loans and unemployment benefits just do not keep an industry alive when it is swamped by foreign imports. We need import quota type legislation. Let me just conclude by saying that I don't think we have much more time to debate this thing and study the problem any longer. Recent events in the last few weeks have shown the dollar is at the lowest point since World War II. Who's leading the attack on the dollar? The stories are now out. Our big multinational business and banking corporations free to move huge amounts at will around the world were actively speculating and still are against the U.S. dollar. The balance of

payments deficit is getting worse, not better, and at the current rate of U.S. imports of footwear, it looks as though our balance of payments will be worse off by \$750 million in 1971. I think free trade is a luxury we can no longer afford in this country. It is time that we act while there is still something left of such vital industries and, above all, while there is still something left of the U.S. dollar.

Thank you very much for listening.

NCOA TO GIVE AWARD IN HONOR OF L. MENDEL RIVERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. HÉBERT) is recognized for 10 minutes.

Mr. HÉBERT. Mr. Speaker, we are aware of the continuing interest shown by the Noncommissioned Officers Association of the United States of America in matters legislative by their periodic correspondence with regards to various actions which affect the military services and indeed the general welfare of this great Nation.

They endeavor to keep their worldwide membership informed in these matters through the medium of their monthly publication, NCOA Journal, and they encourage their members to accept the challenge of an American citizen to cite his individual views to his Congressman.

The attentiveness to legislative action by the NCOA is encouraging to me, as I am certain it is also to many of my colleagues. They have allowed us the opportunity of their collective thinking concerning such subjects as consumer protection and truth in lending statutes, dependents medical care, recomputation of military retired pay, the Hubbel pay plan, retirement credit for enlisted reservists, integrity of the American flag, social security versus veterans pensions, the cold war GI bill, servicemen's widows equity, various military pay bills, and many others.

As an honorary member of the Non-commissioned Officers Association, it is my privilege to announce that this fine organization, being acutely aware of our actions through their legislative committee, has initiated an annual award to be presented to the legislator who, in their opinion, is most worthy of recognition for his efforts in furthering the ideals of democracy, freedom, and patriotism on behalf of our beloved Nation.

The award will be known as the "L. Mendel Rivers Award for Legislative Action," and I can think of no title more appropriate or meaningful, both as a coveted honor and memorial to a great legislator.

In conclusion, I ask that each of you join in commending and extending thanks to the NCOA for their continued interest in the workings of the Democratic process, and especially for their thoughtful, valuable, and honorable gesture in memory of our late colleague, L. Mendel Rivers.

THE ROLLER BEARING INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

woman from Connecticut (Mrs. GRASSO) is recognized for 15 minutes.

Mrs. GRASSO. Mr. Speaker, the roller bearing industry in this country is threatened by large and steadily growing imports. Especially critical is the substantial share of the U.S. market gained by imported miniature instrument bearings—a prime component for our aeronautical and defense industries. It has become quite clear that the manufacturing capacity and defense readiness capability of this industry is in decline.

Connecticut is a leader in the bearing industry with five major bearing manufacturing concerns located in this State. These companies, Fafnir, the Torrington Co., Marlin Rockwell, New Departure, and the Barden Co., constitute about 26 percent of the total U.S. manufacturing capability. In this last year alone, 4,600 jobs have been lost by the Connecticut companies, losses mostly due to the increased imports.

This loss of 4,600 jobs further aggravates the disastrous economic situation in Connecticut. Three cities in my district suffer unemployment rates above 10 percent, with one city over 20 percent.

I must stress that these losses in the bearing industry are critical. These are highly skilled technicians, trained to work with the most intricate equipment. Their skills, like those of a concert pianist, are lost through misuse. The manufacture of bearings cannot be turned on and off. Once production is shut down, a costly retraining period must precede increases in manufacturing output. This is very much a people-oriented industry. The complicated machinery used in production depends fully on the skilled operator.

Assistance to this industry which has suffered these employment and earning declines is imperative if the bearing manufacturers in the United States are to survive.

I am introducing today a bill to preserve the American ball bearing industry by the use of multinational agreements similar to those used successfully in other areas. This bill contains three major provisions. First, total imports in any 1 year shall not exceed the average proportion of imports to domestic production during the 1961-66 period. Second, imports in any category in any year shall not be more than 10 percent above the average annual consumption for the 1961-66 period for that category. Third, the percentage of total imports in any year represented by imports from a particular nation shall not exceed the average percentage of total imports during the 1961-66 period represented by imports from that nation.

This legislation is desperately needed by the important bearing industry. Production in this industry in the United States reached a peak of \$509 million in 1966 and fell to \$450 million in 1970. During the same period, imports rose from \$35 million to \$54 million. The trend is continuing during 1971 with less domestic production and increasing imports.

The crucial items are the small in-

strument bearings. These range to 52 mm. in size. The table below shows the relation of bearing imports as a percentage of domestic production for 1969 and 1970:

Size	Percent	
	1970	1969
Millimeters:		
0 to 9	51	47
9 to 30	62	51
30 to 52	56	45

Well over half of the consumption of these bearings results from imports.

This decline in domestic production has resulted in the loss of over 11,000 jobs during the past year alone. It also has meant the closing of plants or departments, and the loss of capability of readiness for a rapid increase in domestic production in case of a national emergency. Employment in bearing plants in the United States fell from 62,800 in January 1970 to 51,600 in January 1971. While part of this decline is due to the general economic conditions, the greatly increased importation of ball bearings accentuated the trend.

Connecticut, the leader in domestic production, with about 26 percent of the total U.S. industry, suffered the greatest decline, with a loss of 4,600 jobs over the past year. However, a number of other States face the same problem as the following table indicates:

EMPLOYMENT BY STATE

State	January 1970	January 1971	Loss of jobs 1970-71
Connecticut	16,100	11,500	4,600
Ohio	15,300	12,200	3,100
Pennsylvania	5,600	4,900	700
New York	4,600	3,700	900
Michigan	4,200	3,400	800
Indiana	3,800	3,200	600
New Hampshire	2,100	1,600	500

The manufacture of ball and roller bearings is a highly skilled trade with a well trained work force. We cannot afford to lose these craftsmen who have the complex skills so necessary to our natural well-being.

Foreign governments have made a positive effort to help their bearings industries get into the export market. This includes the removal of export restrictions, the approval of cartels, and the rapid writeoff of capital goods and equipment. In Japan, much of the production machinery can be written off in 2 years as compared with 7 to 10 years in the United States.

The results of this concerted effort are evident in the following table:

Value of imports in 1970

Japan	\$37,843,000
Canada	6,240,000
Germany	4,700,000
United Kingdom	3,400,000
Switzerland	800,000
Austria	400,000
France	200,000
Sweden	200,000
Italy	100,000

This continuing rise of imports has affected the ability of the U.S. industry

to supply essential bearings and finance the research necessary for progress in bearing technology for future defense needs.

The bleak outlook will result in American companies abandoning their development work, further widening the import to domestic production gap. Research and development are needed to keep any industry technologically competitive. The research which is imperative must be supported by high volume sales.

Unless aid for the bearing industry is soon forthcoming, the domestic bearing industry may well be a thing of the past.

It is imperative that we save this vital domestic industry. My bill will serve this end, and I therefore, urge my colleagues to join in the effort for swift enactment of this measure.

CONGRESSIONAL LAWSUIT TO TEST THE CONSTITUTIONALITY OF THE WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. MITCHELL) is recognized for 20 minutes.

Mr. MITCHELL. Mr. Speaker, on April 7, 1971, the gentleman from Massachusetts (Mr. HARRINGTON), the gentleman from New York (Mr. ROSENTHAL), and I filed a suit in the U.S. District Court of Washington, D.C. The suit, Mitchell et al against Nixon et al, asserts that the war in Indochina is illegal without a decision by Congress to fight a war. To date, we have been joined by ten of our distinguished colleagues. Coplaintiffs include: Representatives BELLA S. ABZUG, PHILIP BURTON, HERMAN BADILLO, WILLIAM CLAY, SHIRLEY CHISHOLM, JOHN CONYERS, JR., CHARLES C. DIGGS, JR., CHARLES B. RANGEL, THOMAS M. REES and LOUIS STOKES.

Under the Constitution, only Congress has the power to declare war. Congress has not exercised this power in regard to Indochina. It has passed no legislation or Joint Resolution declaring war. Nor has Congress enacted any statute which expressly and intentionally authorizes war. Thus, in carrying on the war in Indochina, the executive branch of the Government has acted without constitutionally required congressional authorization.

We feel this legal action is critical to the reestablishment of the separation of powers concerning the question of whether this Nation should fight a war. Because of the serious nature of our action, and the widespread interest in the case, we wish to submit for the RECORD, our statement of May 25, 1971, and the papers which have been filed by the plaintiffs in this case.

The material follows:

[In the U.S. District Court for the District of Columbia]

CIVIL ACTION No. 697-71

The Honorable Parren J. Mitchell, 951 Brooks Lane, Baltimore, Maryland, and The Honorable Michael J. Harrington, Bayview Avenue, Beverly, Massachusetts and The Honorable Benjamin S. Rosenthal, 8812 Elmhurst Avenue, Elmhurst, New York, Plain-

tiffs, v. Richard M. Nixon, individually and as President of the United States, The White House, 1600 Pennsylvania Avenue, NW., Washington, D.C. and Melvin R. Laird, individually and as Secretary of Defense, Department of Defense, Washington, D.C. and William P. Rogers, individually and as Secretary of State, Department of State, Washington, D.C. and Stanley Resor, individually and as Secretary of the Army, Department of Defense, Washington, D.C. and John H. Chafee, individually and as Secretary of the Navy, Department of Defense, Washington, D.C. and Robert C. Seamans, Jr., individually and as Secretary of the Air Force, Department of Defense, Washington, D.C. and the United States of America, c/o United States Attorney, U.S. Court House, John Marshall Place, N.W., Washington, D.C., Defendants.

COMPLAINT

(ACTION FOR INJUNCTION AND DECLARATORY RELIEF)

Come now plaintiffs, The Honorable Parren J. Mitchell, The Honorable Michael J. Harrington, and the Honorable Benjamin S. Rosenthal, Members of the Congress of the United States of America, by their undersigned counsel, and as for their claims for relief against the above-named defendants, and each of them, allege as follows:

1. This is a civil action which arises under the Constitution of the United States, wherein the amount in controversy exceeds \$10,000, exclusive of interest and costs. Each individual defendant is failing to perform a duty owed to the plaintiffs. This court has jurisdiction over this case under 28 U.S.C. Section 1331, 28 U.S.C. Section 1346, 28 U.S.C. Section 1361, and other provisions of law.

2. Plaintiffs are each duly elected and qualified Members of the House of Representatives of the Congress of the United States of America. Plaintiff Parren J. Mitchell is the Representative of the 7th Congressional District of the State of Maryland; Plaintiff Michael J. Harrington is the Representative of the 6th Congressional District of the Commonwealth of Massachusetts; Plaintiff Benjamin S. Rosenthal is the Representative of the 8th Congressional District of the State of New York.

3. Defendants other than defendant United States of America are officers and employees of the United States of America and this action is brought against them individually and in their official capacities. Defendant Richard M. Nixon is the President of the United States. Defendant Melvin R. Laird is the Secretary of Defense of the United States. Defendant William P. Rogers is the Secretary of State of the United States. Defendant Stanley R. Resor is the Secretary of the Army of the United States. Defendant John H. Chafee is the Secretary of the Navy of the United States. Defendant Robert C. Seamans, Jr. is the Secretary of the Air Force of the United States.

4. For at least the last seven years, and continuing to the present date, the United States, by and through the conduct of defendants, and each of them, and the predecessors in office of each of the individual defendants has been engaged in Indo-China in the prosecution of the longest and one of the most costly wars in American history. As of the present, one million human beings including over 50,000 Americans have been killed in the war, and at least one hundred billion dollars has been spent by the United States in and for the prosecution of the war. Each day that the war continues, additional American lives are being lost and additional monies are being spent, and defendants threaten the continuation of the war with a continuing loss of lives and expenditure of American dollars unless the relief requested herein is granted.

5. Article I, Section 8, Clause 11 of the United States Constitution states, in clear

and unequivocal language, that Congress shall have the power to declare war. Congress has not exercised this power. It has passed no legislation or Joint Resolution declaring war in Indo-China, nor has it explicitly, intentionally, and discretely authorized the war. Appropriations acts and Selective Service renewals are not exercises of the declaration-of-war power.

6. By prosecuting the war without obtaining either a declaration of war or an explicit, intentional and discrete authorization of war in Indo-China, the defendants and their predecessors in office have in the past and presently continue to unlawfully impair and defeat plaintiffs' Constitutional right, as members of the Congress of the United States, to decide whether the United States should fight a war.

7. Defendants owe plaintiffs the duty not to fight an undeclared, unauthorized war, and to cease the prosecution of the present war in Indo-China. Despite this, defendants have failed and refused, and continue to fail and refuse, to perform this duty.

8. Plaintiffs have been and continue to be irreparably injured as legislators and lawmakers by the defendants' action in prosecuting the war in Indo-China, because the efficacy of plaintiffs' right to vote in Congress in deciding whether to go to war has been and continues to be impaired and defeated. Plaintiffs have no adequate remedy at law.

Wherefore, plaintiffs respectfully pray that this Court issue relief as follows:

First, that this Court issue an order that defendants shall be enjoined from prosecuting the war in Indo-China unless, within 60 days from the date of such order, the Congress of the United States shall have explicitly, intentionally and discretely authorized a continuation of the war in Indo-China, with whatever limitations Congress may place upon such continuation;

Second, that this Court issue a declaratory judgment that the defendants are carrying on a war in violation of Article I, Section 8, Clause 11 of the United States Constitution; and

Third, that this Court order such other and further relief as it may deem appropriate.

[In the U.S. District Court for the District of Columbia, Civil Action No. 697-71]

THE HON. PARREN J. MITCHELL, ET AL, PLAINTIFFS V. RICHARD M. NIXON, ET AL., DEFENDANTS

MOTION TO VACATE ORDER OF APRIL 12, 1971

Come now Plaintiffs, by their undersigned counsel, and respectfully move this Court pursuant to Rule 60 of the Federal Rules of Civil Procedure, to enter an Order (1) vacating the Order, entered on April 12, 1971, which (a) directed the United States Marshal to withhold service of the summons and complaint upon Richard M. Nixon, President of the United States of America; (b) quashed such process as to the President; and (c) dismissed this action as to the President; and (2) directing the United States Marshal to effect service of the summons and complaint upon defendant Richard M. Nixon.

The grounds for this motion are as follows: (1) prior to the entry of the Order of April 12, 1971, plaintiffs' counsel received no actual notice of the Suggestion for Dismissal of Action as to Richard M. Nixon, President of the United States, filed by the United States Attorney, pursuant to which the Order of April 12, 1971 was entered. Plaintiffs' counsel therefore had no hearing and no opportunity to present any opposition to the entry of the Order. (2) As a matter of law the Order of April 12, 1971 is in error.

Attached hereto and filed in support hereof is Plaintiffs' Memorandum of Points and Authorities.

Wherefore, Plaintiffs pray that this motion be granted.

[In the U.S. District Court for the District of Columbia]

CIVIL ACTION No. 697-71

The Hon. Parren J. Mitchell, et al., Plaintiffs v. Richard M. Nixon, et al., Defendants.

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO VACATE ORDER OF APRIL 12, 1971

Plaintiffs, having had no prior opportunity to oppose the entry of the Order entered on April 12, 1971, now urge that that Order be vacated. Defendant Richard M. Nixon properly should be before the Court as a defendant in this case.

We concede that under *Mississippi v. Johnson*, 71 U.S. 437 (1867), it traditionally has been regarded that the President is not subject to the jurisdiction of the courts and cannot be served with process. This early case represents dubious law in the modern age, for it symbolically stands for the proposition that the President is above the law. The statutes and the Federal Rules of Civil Procedure providing for service of process on and jurisdiction of the courts over officers and employees of the United States make no exception for the President, and in *Mottola v. Nizon*, N.D. Calif., No. C 70 943, Judge Sweigert specifically refused to quash service upon the President and dismiss him as a defendant. *Mottola v. Nizon*, 9th Cir. No. 26,662, Brief of Appellants Nixon and Laird.

As a practical matter, of course, whether the President is subject to the jurisdiction of this Court makes no difference in whether the Executive Branch can be prevented from violating the law. Cabinet officers and other Executive officials are subject to the jurisdiction of the Court in cases challenging the legality of Executive actions, and the Court's orders against them have the effect of stopping the Executive from violating the law. It is thus of no consequence to argue, as the United States Attorney has, that separation of powers precludes jurisdiction over the President. Moreover, it is a fact that each branch is subject to the decision of other branches in other ways as well: for example, the jurisdiction of the courts is subject to Congress' power to make exceptions; and actions by Congress and Congressmen are subject to being ruled illegal by the courts. *Powell v. McCormack*, 395 U.S. 486 (1969); *Reservists Committee to Stop the War v. Laird*, D.D.C. No. 1429-70, (Memorandum Opinion April 2, 1971, Gesell, J.)

No burdens or duties would be imposed upon the President if he were simply subject to the jurisdiction of the Court as a defendant. Like other Executive Branch defendants, he would be represented by the Department of Justice. And whether or not he could be made to physically appear in court or to fulfill other obligations of litigation, such as answering interrogatories, is a wholly different question from whether he can merely be served as a defendant, and is indeed a question which can exist whether or not he is a defendant in a case.

For all these reasons, then, the doctrine of separation of powers provides no theoretical or practical reason for holding that the President is not subject to the jurisdiction of this Court.

Thus, as said above, the only real meaning to the question of whether the President is subject to the jurisdiction of the Court and to service of process is a symbolic meaning. If the President is not subject to the jurisdiction of the Court, then symbolically he is above the law. Such a concept is incompatible with the American institution of government under law and therefore should not be followed.

CONCLUSION

Based on the foregoing, the Court should grant Plaintiffs' instant Motion.

STATEMENT OF PARREN J. MITCHELL, MICHAEL HARRINGTON, BENJAMIN S. ROSENTHAL, MAY 5, 1971

Today we are filing a motion asking the court to immediately order the Executive to either obtain Congressional authorization for the war within 60 days or else to cease prosecuting hostilities in Indo-China. On April 7th we filed the case of *Mitchell et al v. Nizon et al* in the District Court here in Washington. To date, ten other Members of Congress have joined as co-plaintiffs. They include: Bella Abzug (D., N.Y.), Phillip Burton (D., Calif.), Herman Badillo (D., N.Y.), William Clay, (D., Mo.), Shirley Chisholm, (D., N.Y.), John Conyers, Jr., (D., Mich.), Charles Diggs, Jr. (D., Mich.), Charles Rangel, (D. N.Y.), Thomas Rees, (D., Calif.), and Louis Stokes, (D., Ohio). We are seeking an immediate hearing on the injunction, and our counsel will file a Brief of over 100 pages in support of this injunction. The following Congressmen in addition to most of the plaintiffs have submitted affidavits for us: Congressman William R. Anderson, (D., Tenn.), Don Edwards, (D., Calif.), Robert L. Leggett, (D., Calif.), and Edward R. Roybal, (D., Calif.).

This case in our opinion, is the most serious effort yet undertaken by anyone to stop the Vietnam war in its tracks. We are, in effect, using the system to heal the system. We are using the system of law to remedy a serious breach in the law—a breakdown in the separation of powers. We are asking the courts to acknowledge the fact that the Vietnam War is unconstitutional because it was never declared or specifically and intentionally authorized by Congress; mere military appropriations and renewal of Selective Service do not authorize war. We are asking the courts to make these rulings of law and to draw the necessary consequences: that the Executive Branch of the Government be enjoined from further prosecution of the war unless within 60 days Congress shall have authorized a continuation of the war, with whatever limits Congress should want to make upon such continuation. In other words, the war would come to an end after the two month period, unless within that period Congress shall specify some other termination date. The essential thing is that Congress will regain its Constitutional prerogatives—to make the decision on war and peace.

Many people have tried in many ways to end the Vietnam war—by petitioning the Government, by writing letters to editors and to the President, by marches, sit-ins, teach-ins, and demonstrations of all kinds and degrees. But all these vast efforts add up to one basic appeal, namely, to ask the Executive to please stop this unconstitutional and immoral war. We too, have engaged in various efforts to end the war both in the Congress and in citizen-organized protests. Although these efforts are necessary, we feel that the time has come for a bold and different approach.

Our lawsuit, and our request to the court today for an injunction, should be sharply distinguished from these preceding efforts. Today, we are no longer asking the Executive Branch of the Government to do anything. Rather, we are seeking the compulsory process of the Judiciary. We are petitioning the courts to force the Executive Branch to stop the war unless Congress authorizes it. That is why we say this is the most serious effort yet undertaken to stop the Vietnam war and to reassert the Constitutional rights of Congress.

We firmly believe that this lawsuit is not only a critical step to stop the present war in Indo-China, but is equally significant as insurance that at some future date we will not again find ourselves in the position of an ongoing war that was started by the President without an initial decision by Congress.

If the independent Judiciary of our nation

grants us the relief we seek, then the Executive will be faced with a court order that it cannot ignore. The War in Vietnam can then come to a complete halt—not in six years, but very shortly.

[In the U.S. District Court for the District of Columbia]

CIVIL ACTION No. 697-71

The Honorable Parren J. Mitchell et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

MOTION FOR (1) PRELIMINARY INJUNCTION, (2) CONSOLIDATION OF THE TRIAL ON THE MERITS WITH THE HEARING ON THE APPLICATION FOR PRELIMINARY INJUNCTION AND (3) PERMANENT INJUNCTION

Come now Plaintiffs, by their undersigned counsel, pursuant to Rule 65 of the Federal Rules of Civil Procedure, and move the Court for an Order (1) granting a preliminary injunction, (2) advancing the trial on the merits and consolidating it with the hearing on this application for preliminary injunction and (3) granting a permanent injunction, in accordance with the prayer for relief in the Complaint that defendants shall be enjoined from further prosecuting the war in Indo-China unless, within 60 days from the date of the Order, the Congress of the United States shall have explicitly, intentionally and discretely authorized a continuation of the war, with whatever limitations Congress may place upon such continuation.

The grounds for this Motion are that:

1. The present war in Indo-China has been and continues to be in violation of Article I, Section 8, Clause 11 of the United States Constitution, in that Congress has not declared war nor explicitly, intentionally and discretely authorized the war. Military appropriations and renewal of Selective Service do not authorize war.
2. Unless enjoined by this Court, defendants will continue the prosecution of the war in Indo-China.
3. Plaintiffs have suffered and daily will continue to suffer immediate and irreparable injury by the continuation of the war, in that there is a continuing ignoring, nullification and infringement of the right granted to each of them by Article 1, Section 8, Clause 11 of the Constitution to participate in the decision by vote on whether the United States should fight a war.
4. The defendants' act of nullifying and infringing plaintiffs' constitutional right of participation in a decision by vote on war has and continues daily to disable plaintiffs from fully carrying out their legislative responsibilities, from protecting and carrying out the best interests and desires of their constituents, and from safeguarding the lives, property and money of their constituents. The right of plaintiffs to participate in a decision by vote on whether the United States should fight a war can be restored and preserved only by granting the relief requested herein.
5. Plaintiffs have no adequate remedy at law. They cannot be compensated by money damages and an injunction is required to vindicate plaintiffs' constitutional right.
6. Based upon the facts and the law, plaintiffs are entitled to the relief requested herein.
7. Defendants will not suffer any injury if the relief requested herein is granted.
8. The public interest will be best served by a prompt determination of the issues presented and the granting of the relief requested herein, in that the continuation of the war each day results in the loss of additional lives, additional persons are wounded and there are tremendous additional expenditures of American monies. Moreover, each day there is widespread debate, frustration and civil disobedience, which in significant part results from the lack of an adequate

judicial determination as to the legality of the prosecution by the defendants of the present war in Indo-China.

9. The issues presented here are ripe for determination and there is no reason to delay a determination. The factual and legal issues are narrow and specific and all of the evidence which could be presented at a delayed trial on the merits can be presented at the hearing of this motion. Because of the vast public interest and importance attaching to an expeditious hearing in this case, the preliminary hearing herein should be consolidated with the trial on the merits. Defendants have litigated many of the factual and legal issues presented by this motion in cases throughout the country and are fully acquainted with the issues involved.

10. Repetition of evidence will be avoided, no delay in the disposition of the application for preliminary injunction will result from consolidation, and the final disposition of the action will be expedited by consolidation. The vindication of plaintiffs' constitutional rights and the public interest require that the Court grant plaintiffs a hearing and that the relief requested herein be granted.

Attached hereto and filed in support thereof are the affidavits of Representatives William R. Anderson, Bella S. Abzug, Herman Badillo, William (Bill) Clay, Shirley Chisholm, John Conyers, Jr., Charles C. Diggs, Jr., Don Edwards, Donald M. Fraser, Michael J. Harrington, Robert L. Leggett, Parren J. Mitchell, Benjamin S. Rosenthal, Edward R. Roybal and Louis Stokes.

Attached hereto and filed in support hereof is Plaintiffs' Memorandum of Points and Authorities.

Wherefore, plaintiffs pray that this motion be granted.

Respectfully submitted,

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Attorneys for Plaintiffs.

CIVIL ACTION No. 697-71

[In the U.S. District Court for the District of Columbia]

The Honorable Parren J. Mitchell, *et al.*,
Plaintiffs, v. Richard M. Nixon, *et al.*,
Defendants.

PLAINTIFFS' MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION FOR
(1) PRELIMINARY INJUNCTION, (2) CONSOLIDATION OF THE TRIAL ON THE MERITS WITH THE HEARING ON THE APPLICATION FOR PRELIMINARY INJUNCTION AND (3) PERMANENT INJUNCTION

I. INTRODUCTION TO STANDING AND POLITICAL QUESTIONS

The present suit is brought by duly elected Members of the Congress of the United States, seeking a judicial ruling that the war in Indo-China is unconstitutional and applying for declaratory and injunctive relief. The Members of Congress are suing in their capacity as federal legislators, alleging an infringement of their legislative prerogatives, powers, duties, and responsibilities to decide whether this nation should fight a war.

We shall argue that the plaintiffs possess the requisite standing to bring this suit under rulings of the United States Supreme Court, and that the suit presents a justiciable question of Constitutional interpretation and not a so-called "political question." Under the recent rulings of the Supreme Court, which we shall examine later, the gist of the question of standing is whether the plaintiffs possess a personal stake in the controversy that will ensure proper adversary illumination of the issues, and that the plaintiffs arguably come within the zone of interests protected by the Constitutional provisions they invoke. Also under recent Supreme Court decisions, a question is justiciable and not a "political question" if the court is called upon to interpret the Constitution. In the present case, the question of whether the plaintiffs meet the standards established by the recent Supreme Court decisions on standing and justiciability will be elucidated by a consideration of the merits of the Constitutional issue which the plaintiffs are raising, and of the meaning and scope of the Constitutional clause which they are invoking. Therefore in order to conserve the court's time, we shall first present a full discussion on the merits, reserving to later sections of this Brief a detailed examination of the bases for standing and justiciability in light of the merits of the case. This procedure, it may be noted, was utilized with great efficiency by Judge Gesell in his recent decision in this District Court in *Reservists Committee to Stop the War. v. Laird*, Civ. Action No. 1429-70.

II. THE MILITARY CAMPAIGN CURRENTLY BEING WAGED BY UNITED STATES FORCES IN INDO-CHINA IS UNSUPPORTED BY A CONGRESSIONAL DECLARATION OF WAR OR BY A SPECIFIC, INTENTIONAL, AND DISCRETE CONGRESSIONAL AUTHORIZATION OF WAR AND CONSEQUENTLY IS AN UNCONSTITUTIONAL EXERCISE OF EXECUTIVE POWER

A. Military Hostilities of the Scope and Duration of the Present Indochina War Effort by the United States Are Constitutionally Dependent on a Declaration of War by Congress.

1. *The Congressional Power to Declare War.*
The Congressional power to declare war is the result of a carefully and forcefully drawn division of the warmaking power between the Executive and Legislative organs of the Republic; the historical origin and contemporary consequences of that division give it special importance in the general scheme of the separation of powers.

While Article II, Section 2, Clause I, makes the President the "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," Article I, Section 8, Clause 11, grants to Congress the power "to declare War, grant letters of Marque and Reprisal and Make Rules concerning Captures on Land and Water," and Clause 15 grants to Congress the power to call forth the militia for three specified purposes.

It is not by accident that this distribution of authority came to be plainly stated. The draftsmen of the Constitution were the beneficiaries of experience under the British Crown where the powers of commitment to war and prosecution of war were joined in the office of the King, and they consciously sought to avoid the abuses which that joiner had indulged. Abraham Lincoln's reading of the Founding Fathers' lodging of the power to declare war in Congress conformed to this view. Lincoln said:

"Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This our Convention understood to be the most oppressive of all kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us. (1 Basler, *The collected Works of Abraham Lincoln* 452 (1953).)"

Justice Story's view of the policies underlying Article I, Section 8, Clause 11, was very similar:

"[T]he history of republics has but too fatally proved, that they are too ambitious of military fame and conquest, and too easily devoted to the views of demagogues, who flatter their pride, and betray their interests. It should therefore be difficult in a republic

to declare war; but not to make peace. The representatives of the people are to lay taxes to support a war, and therefore have a right to be consulted, as to its propriety and necessity. . . . This reasoning appears to have had great weight with the Convention, and to have decided its choice. Its judgment has hitherto obtained the unqualified approbation of the country. (2 Story, *Commentaries on the Constitution of the United States*, 89-90 (2d ed. 1851).)"

The Framers' fear of executive license in committing the republic to war was so great that during the Constitutional Convention, Elbridge Gerry, responding to a suggestion to lodge the war power in the Presidency, stated that he had "never expected to hear in a republic a motion to empower the executive alone to declare war." 2 Farrand, *Records of the Federal Convention* 318 (1923 ed.).

Correlatively the commander-in-chief power of the President was understood to be limited in the sense described by Alexander Hamilton in the *Federalist* No. 69:

The President is to be commander-in-chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and Admiral of the Confederacy; while that of the British king extends to the declaring of war and to the raising and regulating of fleets and armies—all of which, by the Constitution under consideration, would appertain to the legislature."

The Supreme Court early recognized that power given to Congress was the exclusive means whereby the nation was to be committed to war. *Talbot v. Seeman*, 5 U.S. (1 Cranch) 1 (1801), involved the legality of the seizure of a French ship, the *Amelia*:

"In order, then, to decide on the right of Captain Talbot, it becomes necessary to examine the relative situation of the United States and France at the date of the recapture."

The whole powers of war being by the Constitution of the United States, vested in Congress, the acts of that body can alone be resorted to as our guides in this inquiry. . . . (id. at 28.)"

As grave and great as were the consequences of the commitment of our nation to war in 1787, the war in Indo-China affords staggering evidence of the proportions that a commitment to war can assume today. In Vietnam, Laos and Cambodia we are confronting no major world power, and no nuclear weapons have been employed. Yet, over one-half million Vietnamese and over fifty thousand Americans have lost their lives. The war has become the most protracted war in American history.

Thus, the policies which moved the draftsmen of the Constitution to lodge with Congress the power to place our country at war speak with greatly magnified force in our own era. Yet, with the perversity that not infrequently characterizes the affairs of men, it is in our own era that the Executive Branch has first acted at serious odds with the express constitutional provision which places that power in the hands of the legislative branch.

This observation is of more than historical significance, since apologists for the Executive prosecution of an undeclared war in Southeast Asia have included the claim that Presidents have frequently engaged in military operations without consulting or receiving the authorization of Congress. However, it is extremely doubtful that even a consistent, long-term practice of the Executive Branch to violate an express requirement of the Constitution could become self-validating. In *Youngstown Sheet & Tube Co. v. Saw-*

yer, 343 U.S. 579 (1952), the Supreme Court responded to the proposition that Presidents had in the past acted without Congressional authority, as follows: "But even if this be true, Congress has not thereby lost its exclusive constitutional authority to make laws necessary and proper to carry out powers vested by the Constitution . . ." Id. at 588-589. In any event, however, Presidential action until 1950 has demonstrated compliance with the Constitutional requirement that a commitment of this nation to a major war

must rest upon a formal Congressional act declaring or specifically authorizing that commitment.

The United States has been involved in eight major wars: The War of 1812, the Mexican War of 1846-48, the Civil War, the Spanish-American War, World Wars I and II, the Korean "Police Action", and the Vietnam War.

The following chart compares the levels of the Indo-China war, as of 1970, with others in our history:

	Number of troops	Deaths	Wounded	Total casualties
World War II	16,353,659	407,316	670,846	1,078,612
Civil War (Union casualties)	2,313,363	364,511	281,881	646,392
Vietnam (approximations)	10,000,000	45,000	300,000	345,000
World War I	4,743,826	116,078	204,002	320,710
Korea	5,764,143	33,629	103,284	136,913
Mexican War	78,718	13,283	4,152	17,435
War of 1812	286,730	2,260+	4,505	5,765+
Spanish American War	306,760	2,446	1,662	4,018

Source: Data on prior wars was obtained from the 1970 World Almanac, page 162.

Prior to the Korean conflict, each maximum commitment of American military resources to armed hostilities received the explicit approval of the Congress.

Thus, it is possible to distill from the American historical experience the standard which Congress has inevitably followed before committing this nation's military resources to prolonged and bloody combat.

The War of 1812 was authorized by an explicit Congressional declaration of war, dated June 18, 1812, which recited:

"Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, that War be and the same is hereby declared to exist between the United Kingdom of Great Britain and Ireland and the dependencies thereof, and the United States of America and their territories; and that the President of the United States is hereby authorized to use the whole land and naval force of the United States to carry the same into effect, and to issue to private armed vessels of the United States commissions or letters of marque and general reprisal, in such form as he shall think proper, and under the seal of the United States, against the vessels, goods, and effects of the government of the said United Kingdom of Great Britain and Ireland, and the subjects thereof. 2 Stat. 755.

The Mexican War of 1846-1848 was authorized by an explicit Congressional declaration of war, dated May 13, 1846, which in terms authorized the President to use the armed forces of the United States to prosecute the war. 9 Stat. 9-10.

The commitment of the nation's military resources to the Civil War was authorized by a joint resolution of Congress, dated August 6, 1861, which stated:

"And be it further enacted, That all the acts, proclamations, and orders of the President of the United States after the fourth of March, eighteen hundred and sixty-one, respecting the army and navy of the United States, and calling out or relating to the militia or volunteers from the States, are hereby approved and in all respects legalized and made valid, to the same intent and with the same effect as if they had been issued and done under the previous express authority and direction of the Congress of the United States. 12 Stat. 326."

The Spanish-American War was authorized by a joint resolution of Congress, dated April 20, 1898, which was followed by a formal declaration of war on April 25, 1898 explicitly authorizing the President to use the armed forces of the United States to prosecute the war. 30 Stat. 364.

The First World War was authorized by an explicit Congressional declaration of war, dated April 6, 1917, which in terms author-

ized the President to employ the armed forces to carry on war against Germany. 40 Stat. 1.

The Second World War was authorized by explicit Congressional declarations of war, dated December 8, 1941 (Japan) and December 11, 1941 (Germany and Italy), in terms directing the President to use the armed forces to carry on war. 55 Stat. 795-97.

Thus, in every prolonged and bloody military struggle in this nation's history prior to Korea the principle was reaffirmed that Congress must, in some explicit form, manifest its unequivocal will to embark this nation upon major armed hostilities as a constitutional precondition to involving this nation in war, whether it be de jure or de facto.

The Korean War of 1950, like the war in Southeast Asia today, was not a war declared by Congress nor specifically and intentionally authorized by that body. It was brought to an end as the result of the election of President Eisenhower in 1952. Unfortunately its constitutionality was not challenged in the courts, for the war set in motion a vast military-industrial complex, of which President Eisenhower warned the nation as he left office in 1960, which welcomed an increasing unauthorized commitment by the Executive Branch in the war in Southeast Asia. The tragic cost and waste of the Vietnam War might have been averted had it been made very clear in 1950 that the Executive cannot unilaterally plunge this nation into war. Today there is a second chance—to assert the primacy of the Constitution in matters of the engagement of this nation in a major war. A third chance may never come, because the next war could be suicidal for the human race.

Thus, the Congressional power to declare or specifically authorize war has been recognized in every major war prior to 1950. Historical precedent, the intention of the Framers, and the text of the Constitution all reinforce the proposition that it is Congress, and not the President, which is required by the Constitution to declare or intentionally and specifically authorize war.

2. *The Power of the President.* Whatever power the President, acting alone, may have to deploy the armed forces of the United States in emergency situations, his power does not extend so far as to wipe out Congressional powers over a major war such as the present war in Southeast Asia. In the present case the issue is not presented whether the President is justified to deploy troops abroad in situations such as the protection of American civilians, or to use the armed forces in emergency or near-emergency situations. Historically the President has asserted his powers as Commander-in-Chief for some such situations, and at other times

he has sought specific Congressional authorization. It is not relevant here whether, as a moot historical point, all of these past situations were valid under the Constitution. Whether they were or not, none of them approached the level of magnitude of the Vietnam War.

Nor is it relevant to the present case whether in relation to the Gulf of Tonkin incident in 1964 the President was justified in using American forces to repel an attack when there was no time to obtain a Congressional declaration or specific authorization of war. For the point at issue in this case is whether, even though the President has the Constitutional authority to repel a sudden attack, he can then engage in a long and major war without at any point obtaining a Congressional declaration or a specific authorization of war. Obviously the President cannot do so. Rather, if he wishes to engage in a war subsequent to repelling an attack, he must obtain a Congressional declaration or specific and intentional authorization of war. This was illustrated when, after engaging in action to repel the Japanese attack on Pearl Harbor on December 7, 1941, the President proceeded to obtain a declaration of war against Japan the very next day.

Congress' constitutional power to decide whether the nation shall fight a war such as that in Southeast Asia would effectively be read out of the Constitution if the President, after repelling an attack, could then himself decide to engage in a long and major war. Particularly because not every attack need lead to a war—viz. the attack on the U.S.S. Pueblo in 1968—it is important that Congress' power to decide whether to go to war not be read out of the Constitution. Moreover, it is sometimes unclear whether an attack alleged by the President has in fact occurred, and for this reason too, Congress' power to make the decision on war must be maintained.

It is sometimes claimed that Presidential powers in the field of foreign affairs give the President the constitutional right to fight a war that has not been declared or specifically and intentionally authorized by Congress. See e.g., Legal Adviser, The Legality of United States Participation in the Defense of Viet Nam, 75 Yale L.J. 1085, 1100 (1966). Although there has been discussion over the years as to the extent of the President's general foreign affairs powers, it is clear that one foreign affairs power which does not belong to the President is the power to decide whether this nation shall engage in a war. This power was specifically given to Congress by the Framers of the Constitution. Any claim that the President can operate unconstitutionally in the area of "foreign relations" has been destroyed by Reid v. Covert, 354 U.S. 1, 5-6 (1957), which stated that "The United States is entirely a creature of the Constitution. Its power and authority have no other source."

Nor can it be argued that the President's status as commander-in-chief makes the Vietnam war constitutional. The executive's commander-in-chief claim in this respect was squarely rejected by the Second Circuit Court of Appeals in Berk v. Laird, 429 F. 2d 302 (1970), it also was by the District Court of the Eastern District of New York in Orlando v. Laird, 317 F. Supp. 1013 (1970). It is clear that the commander-in-chief power can not give the President the power to fight a war that has not been declared nor specifically and intentionally authorized by Congress. Were the situation otherwise, the President, as commander-in-chief, could usurp Congress' power to decide whether this nation shall fight a war. Such a result would (1) violate the teaching of Youngstown Sheet & Tube Co. v. Sawyer, supra, where it was ruled that the commander-in-chief power cannot enable the Executive to usurp a Congressional power; (2) create military su-

premacry by making the President, in his military role, supreme over the civilian Congress which has the constitutional authority to decide whether we fight a war; and (3) eliminate a safeguard upon which the state ratification conventions relied when ratifying the Constitution—the safeguard that the President's power as commander-in-chief is subject to Congress' power to declare war. 2 Story, *supra* at 305. The commander-in-chief power, then, does not empower the President to fight wars that have not been authorized by Congress. Rather it only gives him the power to direct our military strategy and tactics in military actions that have been authorized by Congress.

Moreover, it is plainly wrong to argue, as the Executive recently has, that as commander-in-chief the President has the power to decide to fight a Southeast Asian war of whatever duration and scope he thinks to be necessary for the protection of American troops and for the carrying out of his policy desires. This Executive claim is a bootstrap argument because it would enable the Executive to indefinitely continue fighting a war which was illegal in the first place. Precisely because it is an argument which enables the Executive to fight a war for years and years without at any time obtaining a Congressional declaration or specific and intentional authorization of war, it nullifies Congress' constitutional power to make the decision on whether the nation shall fight a war, how big a war shall be fought, and how long a war should be fought. The President, as commander-in-chief, can repel an immediate attack on American troops when there is no time to obtain a Congressional declaration or specific and intentional authorization of war. But he cannot then continue to fight as big a war as he pleases, for as long as he pleases, against whomever he pleases, wherever he pleases, on the theory that he is protecting his troops. Rather, he must obtain the requisite Congressional declaration of war or its equivalent. The Executive does not even pretend that it is withdrawing American forces from the Indo-China war as fast as possible. Rather, in order to attempt to attain the President's own policy desire for the Indo-China theatre, the President continues to retain substantial American forces in Vietnam engaged in war, and has declared his intention to use American air power in combat in the various nations of Indo-China for years into the indefinite future. This Presidential policy clearly usurps Congress' Constitutional power to make the decision whether the United States shall fight a war.

B. There Has Been No Congressional Declaration of War or Its Equivalent with Respect to Southeast Asia.

In a prior section of this Brief it has been shown that the declaration of war clause was placed in the Constitution in order to accomplish a very specific purpose. The Framers were afraid of the dangers of the Executive getting this nation into war. They therefore wished to ensure that Congress, rather than the President, have the power to decide on war, and they carried out their intent by giving Congress the power to declare war. The entire purpose of the declaration of war clause is to ensure that Congress make the decision on war.

Both constitutionally and practically, it is of vital importance to ensure that the purpose of Article I, Section 8, Clause 11, be preserved in its full integrity. When Congress formally declares a limited or a general war, the purpose of the clause is clearly preserved because Congress is making the decision on war. But Congress need not necessarily issue a formal declaration of war in order for the purpose of the Clause to be preserved.

Rather, there can be a Congressional directive which is sufficient under the declaration of war clause without being a formal declaration of war.

To be sufficient under the declaration of

war clause without being a formal declaration of war, however, the Congressional directive must meet three criteria which ensure the preservation of the purpose that Congress be the body which makes the decision whether to fight a war:

(1) The Congressional authorization must be intentional. The authorization of military hostilities must be so framed and presented that an intelligent and conscientious legislator would apprehend that assent to the measure constitutes an authorization of war, and as such, would be constitutionally determinative of executive power to prosecute such hostilities. Intentionality is not to be haphazardly implied from vague and ambiguous evidence of Congressional behavior over a period of time.

(2) The Congressional authorization must be specific. That is, an authorization for a major war must specifically say that it authorizes the President to use the armed forces of the United States against a certain enemy or against named forces and territory. It may be noted that this has been done by every declaration and authorization of war in American history. It is not enough for the authorization to merely say that the President may, if he wishes, conduct war. It would not be enough, for example, if Congress were to authorize the President "as he deems necessary to use all necessary force to preserve peace and freedom throughout the world." This enactment would be so broad as to constitute, in effect, a constitutional amendment, since it would give the President the power of decision on whether or not to engage in war against any nation or in any locality. Surely, if an authorization of military force is to be considered the constitutional equivalent of a declaration of war, it is reasonable to require that the authorization be specific at least in its designation of the entities against which or the forces and territories against which the force may be employed. Any less concrete enactment could only be conceived of as a transfer of the power to commit the nation to war from Congress to the President.

(3) The Congressional authorization must be the product of a separate and distinct choice by Congress that is detached from clause, Article I, Section 8, Clause 11, stands alone. Its solitary position indicates that the Framers wanted separate and distinct action by Congress in order to declare or authorize war. It would have been preposterous to the Framers to imagine that a declaration or authorization of war, a most solemn national act, could be inferred from action that Congress has taken on other legislative matters. War cannot be authorized by inference from legislation which is independently necessary for preserving the national security, such as defense appropriations or Selective Service renewals.

If authorization can be inferred from acts which are independently necessary for the national security, then Congress, will be forced into the position of either refusing to pass these vital acts or else risk having their passage be construed as authorization of a major war. Indeed in obvious deference to the constitutional scheme envisaged by the Founders, every declaration or authorization of war by Congress in this nation's history has been a separate and distinct enactment or joint resolution, untied to any other legislation and certainly not inferred from other legislation.

Logic and history further demonstrate the validity of the proposition that a specific, intentional and discrete authorization of war is a sufficient procedure under the declaration of war clause. As a matter of constitutional logic, such an authorization maintains the integrity of Congress' decisionmaking power over war. For when Congress is asked to enact an independent statute or resolution which explicitly states that it is authorizing and directing the President to carry on hostilities against a certain enemy or against

named forces and territory, Congressmen will know they are being asked to intentionally authorize war and will consequently feel the full impact of the decision they have to make. If they opt for war, they will be intentionally authorizing hostilities in explicit language which will make clear that Congress has decided for war. The purpose of Article I, Section 8, Clause 11, will thus be fulfilled. It is important to ensure such fulfillment in this day when apologists for an Executive war urge that Congressional authorization be loosely inferred from Congressional behavior over a period of time. After all, it is precisely Executive wars, "the most oppressive of all kingly oppressions" in Lincoln's words, which the Framers were fearful of and sought to guard against by giving the decision to declare war to Congress.

In addition to maintaining the integrity of Congress' decisionmaking power over war, an explicit, intentional and discrete authorization of war is sufficient to meet constitutional standards because Congress need not use the formalistic words "A state of war is hereby declared to exist" in order to exercise its power under the declaration of war clause. Rather than a talismanic use of the phrase "declare war" being required, what is required is that Congress knowingly and intentionally exercise its substantive power to authorize war. In this regard, the exercise of the power to authorize war under the declaration of war clause is no different from an exercise of power under any other constitutional clause, such as those enabling Congress to "regulate commerce" or "coin money." Congress need not talismanically use the phrase "regulate commerce" or "coin money" when it exercises these powers. It need only engage in a knowing exercise of its substantive powers.

No textual reason can be adduced for a narrow construction of the term "declare" in Article I Section 8 Clause 11, such as the construction suggested by the defendants in the past that Congress, under that clause, is confined to formally declaring war and simply recognizing legally that a state of war already exists. For the other clauses of Section 8 reveal plainly that a verb such as "declare" is used as a term of stylistic appropriateness in light of the object of the verb. Section 8 contains the phrases: "lay and collect Taxes," "regulate Commerce," "coin Money," "Establish Post Offices," "constitute Tribunals," and "raise and support Armies," among others. Yet these provisions have never been construed so restrictively as to rob them of their intended purpose, which was to act as a repository of substantive powers in Congress. Thus, for example, to "establish" Post Offices has never confined Congress to merely designating a building as a "Post Office," but on the contrary Congress may set up a vast national system of mail collection and delivery. Similarly, the power to "regulate" commerce has historically been construed in very broad terms, including the power to prohibit certain forms of interstate commerce entirely. Thus, the power to "declare" war, read in the same natural way as these other provisions are read, and also read in light of the other "war powers" in Clauses 11 through 16, as well as the Necessary and Proper Clause, is in fact an affirmative grant of plenary powers to Congress. These plenary powers are limited only to the extent that the President, as Commander in Chief, can repel an immediate attack and has the authority to manage and carry on a war that has been authorized by Congress.

Therefore it is altogether proper to read Congress' power under the declaration-of-war clause to allow for an exercise of Congress' power by means of a specific, intentional and discrete authorization of war. For the important point is that Congress retain the decision whether to fight a war, a decision which makes sense only if Congress knowingly and intentionally exercises the power to make it.

Historically, the validity of explicit, intentional and discrete authorizations of war is shown by the fact that Congress issued such authorization early in the nation's history, when many of the framers sat in the legislature or were in the Executive. In authorizing limited hostilities against France, Congress enacted a law stating "that the President of the United States shall be, and he is hereby authorized to instruct the commanders of the public armed vessels which are, or which shall be employed in the service of the United States to subdue, seize and take any armed French vessel, which shall be found within the jurisdictional limits of the United States, or elsewhere, on the high seas . . ." 1 Stat. 578. In authorizing action against Tripoli, Congress enacted a law stating "that it shall be lawful for the President of the United States to instruct the commanders of the respective public vessels aforesaid to subdue, seize and make prize of all vessels, goods and effects, belonging to the Bey of Tripoli, or his subjects . . ." 2 Stat. 129-130. And today, of course, Congress, if it desired to authorize war in Indo China, could easily do so by drafting a suitable explicit, intentional and discrete authorization of hostilities. It could, for example, enact legislation stating the following: "The President is hereby authorized and directed to employ the armed forces of the United States in Indo China against the forces and territory of the government of North Viet Nam, the National Liberation Front, and the Pathet Lao." The following are other, hypothetical examples of bills which, in the context of a Congressional desire to authorize military operations in order to meet a given historical situation, would meet the three criteria of intentionality, specificity, and separateness and distinctiveness, and which would therefore be the constitutional equivalent of a declaration of war. (1) "The President is hereby specifically authorized and directed to employ the armed forces of the United States to carry on hostilities against Country X." Or (2) "The President is hereby authorized and directed to use the armed forces to carry on military action against the forces and territory of Country X." Or (3), "The President is hereby specifically authorized and directed to employ the armed forces of the United States to carry on military operations against National Liberation Coalition X."

The act of July 7, 1798, 1 Stat. 578, which was enacted during the era of the framers and which authorized limited warfare, provides an actual historical example which meets the three criteria of intentionality, specificity, and separateness and distinctiveness. It said p. 22, *supra*, "That the President of the United States shall be, and he is hereby authorized to instruct the commanders of the public armed vessels which are, or which shall be employed in the service of the United States, to subdue, seize and take any armed French vessel, which shall be found within the jurisdictional limits of the United States, or elsewhere, on the high seas. . . ."

We do not intend the above examples to be exhaustive of the possible verbal formulations by which Congress can issue an authorization which meets the three criteria necessary to have the constitutional equivalent of a declaration of war. But the examples do show possible verbal formulations which, in the above-mentioned context of a Congressional desire to authorize military operations in order to meet a given historical situation, would satisfy the duty required of Congress by Article I, Section 8, Clause 11 of the Constitution.

If Congress desired that the hostilities be limited in size and scope, its explicit, intentional and discrete authorization of war could also contain a variety of limitations which would ensure this.

Normally we would think it superfluous to elaborate upon the necessity that an exercise of Congress' war power be specific, inten-

tional and discrete. But in regard to the current war, the Executive has argued that, in place of meeting the requirements of the declaration of war clause, a sort of loose implied Congressional consent to war can be substituted. So long as "consent" can somehow be implied from Congressional actions, the argument goes, there is no need to pay attention to the purpose of the Constitution contained in Article I, Section 8, Clause 11.

However, consent to the war in Indo-China cannot properly be inferred from the actions of Congress in the past decade, as this brief shall fully demonstrate. Moreover, even if a court could infer consent, the Constitution does not say that such consent is a substitute for Clause 11. The Constitution does not say that the President has the power to initiate or declare war, and that the burden is upon Congress to negate a presumed inference of its own consent. Nor does it even say that the President may initiate war and that the war will be validated by subsequent implied consent from Congress. Instead, the Constitution puts Congress in the driver's seat, not the President. Congress must be driving, and not merely being taken along for a ride.

To put any other interpretation upon the Constitution would be to stand it on its head. Congress would be placed in the untenable position of being a rubber stamp, a body that exists solely to give consent to a de facto situation created and perpetuated by the Executive. Further, the momentum created by the President would change the Constitutional priorities and burdens on Congress, for it is extremely difficult not to appropriate money to support troops already in the field, or not to supply more manpower to relieve and/or protect troops already in the field. By seizing the initiative, the President would put Congress in the difficult position of being forced to cut off the use of funds or troops, with a possible cost in lives to troops in the field, in order to assert what was its prerogative in the first place—the power to decide whether we shall fight a war. And even if Congress were to pass a law terminating the war, the President could promptly veto such a law, thus drastically increasing the numerical burden on Congress to override the veto and save the legislation. Surely this procedure is a perversion of the clear constitutional scheme so carefully detailed by the Framers. In effect it robs Congress of one of the most fundamental, important, carefully drafted, and democratically essential of its constitutional powers—the power to decide whether the nation shall go to war. In effect it does away with the purpose of the declaration of war clause. The Court . . . [should] not lightly conclude that a constitutional provision so highly regarded . . . by the Framers serves no real purpose." *Reservists Committee to Stop the War v. Laird*, No. 1428-70 (D.D.C.) (opinion of Judge Gesell).

1. *There Has Been No Congressional Declaration of War!* Congress has never formally declared war with respect to Southeast Asia. This undisputed fact should be viewed in the context of the duration of the war, the most prolonged in this nation's history. Nor is the war on American soil. These observations indicate that there was probably more time and more physical opportunity for the President to ask Congress to declare or specifically, intentionally and discretely authorize war than in any previous war in history. One might conclude that one reason that the President never asked Congress to declare war was that the President felt that Congress would turn down his request and place him in a politically embarrassing position. If this is true, it is certainly no excuse for the judiciary now to ignore the Constitution to justify the Executive's fear of embarrassment.

2. *Congressional Appropriations and Selective Service Amendments Are Not Equivalent to a Declaration of War:*

(a) *They Do Not Meet the Criteria for Declaring War.*

The Executive Branch has often contended that defense appropriations and renewals of the Selective Service Act constitute Congressional authorization for the undeclared war in Southeast Asia. Appropriations and the draft, however, do not meet the criteria necessary under the declaration of war clause for an authorization of war, and as shall be shown below, if appropriations and selective service renewals are held to be an authorization of war, then the integrity of Congress' decisionmaking power over war will be impaired and defeated.

Appropriations bills and renewals of selective service do not meet the criterion of intentionality. There is a whole congeries of important reasons why legislators feel compelled to vote in favor of military appropriations and selective service renewals even though the legislators oppose the war, oppose the use of funds or troops for the war, do not intend to authorize the war, and would not vote to authorize the war. The reasons Congressmen feel compelled to vote for defense appropriations and the draft though they oppose the war have been set forth in affidavits filed in this case by plaintiffs and other legislators. The affidavits show the following critical points regarding appropriations and selective service renewals:

1. In voting for general military appropriations bills, Congressmen did not intend to declare, authorize or ratify the war in Indo-China. Enactment of military appropriations bills does not represent a decision by Congress that the U.S. shall fight a war. A legislator's vote for military appropriations does not necessarily mean that he is for the war and wishes to authorize it, nor does a legislator's failure to vote for legislation to cut off the use of funds in Indo-China mean that he favors the war and wishes to authorize it.

2. As voted upon by the House and Senate, a general military authorization or appropriations bill represents a "package" or "lumped" bill which authorizes or appropriates money for a great variety of military needs, many of which needs are essential to national security, such as ships, planes, bases, and military salaries. The costs of the war are not separately earmarked in the bills, so they cannot be separately identified. Moreover, the costs of the war are substantially less than half of the total monies appropriated for national defense, and over 80% of the forces for which money is authorized or appropriated are not in Indo-China.

Because legislators support the essential defense needs such as ships, planes, and salaries provided for in an authorization or appropriation bill, they have felt that they must vote in favor of the bill even though they oppose the war, and would not vote to authorize the war in Indo-China. There is thus no way validly to generalize that the enactment of general military appropriations or authorization bills represents an intentional decision by the Congress that the United States should fight a war in Indo-China.

3. That Congress has not voted for cutting off funds for Indo-China does not mean that Congressmen favor the war or wish to authorize it. Congressmen have felt strongly that they cannot cut off money to American servicemen who are already in combat in the field and who need the monies for ammunition, food, shelter and other material requisite to survival. Moreover, the procedures used in the House of Representatives made it exceptionally difficult in that body to bring up a bill or amendment cutting off funds. Committee chairmen would see to it that, when considered on the floor, a military authorization or appropriations bill was treated as a unitary "package." Very little or no opportunity was given for the introduction of debate upon, or voting on, amend-

ments to the bill. Time to speak was not democratically apportioned among proponents and opponents. Thus, an amendment to cut off funds for the war would have received nothing but very short procedural shrift, as occurred to other amendments connected with the war. For these reasons, then, the enactment of a military authorization or appropriations bill without a fund cut-off could not represent a conscious and intentional House decision that the nation should fight a war in Indo-China.

4. An appropriations bill enacted without a fund cut-off cannot realistically be equated with a bill which is divorced from appropriations and which independently and intentionally authorizes war. The fact that Congress enacts appropriations bills without cutting off money does not mean Congress would be willing to authorize the war if asked to do so. It would be much harder for the Executive to get Congress to enact an authorization or appropriations act without a fund cut-off.

There are several reasons for this. If federal legislators were asked to authorize war in Indo-China in a bill independent of appropriations, they would think about this very carefully because there could be no doubt they are clearly being presented with a decision for or against war. Each legislator would also think about it carefully because his vote would be recorded and would therefore be visible to the press and public and he would be held accountable for his vote by his constituents. There would doubtlessly have been an earnest debate in Congress and in the nation at any time whatever since 1960 on whether war should be authorized in Indo-China. Such a Congressional debate would have raised all the questions incident to the desirability of committing this nation to fight a war in Asia, whether American troops should be sent to Indo-China, whether the war was in the national interest, and so forth. At the end of such a debate, if a legislator had decided to vote against declaring or authorizing war, he would not have had to feel that he was cutting off necessary moneys to men in combat.

But the situation is entirely different in regard to military authorization and appropriations bills. In the House of Representatives, these bills are considered under procedures which give short shrift to the possibility of introducing and debating amendments to cut off funds. In both houses of Congress the bills do not clearly present the decision of whether to fight a war, since they are "packages" which provide money for a tremendous number of defense needs. Legislators feel that a cutoff of funds, even one at a future date, could endanger our men. In the House of Representatives, votes on amendments in Committee of the Whole have not been recorded in the past, so that a Congressman's constituency was not aware of how he voted on amendments. But even if a Congressman were to announce that he voted to cut off moneys, his constituents could easily be angry with him for possibly endangering troops by cutting off moneys. The same is true for Senators, whose votes on amendments were known. But the constituents of a Senator or Congressman might have agreed with him or been sympathetic with him if he refused affirmatively to authorize war on a war bill or resolution that was wholly divorced from cutting off funds.

Finally, even if Congress were to enact a general authorization or appropriations bill containing a provision cutting off moneys, the President could veto the bill. If there were not a $\frac{2}{3}$ majority necessary in each House of Congress to override the veto, then, because our armed services cannot be left without funds, Congress would have to enact a new bill satisfactory to the President which did not contain a cut-off of moneys. The threat of a Presidential veto thus acts as a substantial deterrent to a Congressman

either to introduce or vote on an amendment for a fund cut-off.

5. In May 1965 and March 1967, the Executive, close to the end of the fiscal years involved, said it had run out of money to use in Vietnam, and Congress enacted supplemental appropriations to be used in Vietnam for the remainder of those fiscal years. However, votes for these supplemental appropriations did not represent a declaration, authorization, or ratification of war.

Legislators felt it necessary to vote for these bills because American servicemen were already in combat in the field and the Executive said the money was immediately necessary to provide them with requisites of survival such as food, ammunition, shelter, etc. In fact, at one point Congress was told by the President that to deny supplemental appropriations would be to deny support to men who are risking their lives. Thus, Congressmen voted for the supplementals even though they did not approve of and did not wish to authorize a large-war in Indo-China.

6. Congress voted in 1967 and 1971 for extensions of the Selective Service Act. But a vote of extending Selective Service is not a vote to declare, authorize or ratify the war in Indo-China.

This country has had a draft since 1940, in both times of war and times of peace. It needs an army in peacetime, and an army is necessary entirely aside from the facts that troops are fighting in Vietnam. Without a sufficient army, it would be impossible to properly man our bases, installations, etc. Unless and until there is a volunteer army, the army must be raised by conscription. Thus, most legislators felt it necessary to vote to extend Selective Service even though they would not have voted to authorize the war and were opposed to using American troops in the Indo-China war.

Moreover, any attempts to amend the Selective Service extension bills to cut off the use of troops in Indo-China would have run into procedural obstacles. A bill to cut off troops would not have been reported out of committee in the House, and due to various obstacles which arise from rules under which bills are debated and voted upon on the floor, a floor amendment in the House to cut off troops would not have received a fair opportunity to be introduced, debated and considered.

Finally, as long as the United States was fighting a war, most legislators, even though they opposed the war, felt the draft was necessary to permit the replacement of troops who had already served in combat.

Thus, for all these reasons, legislators felt it necessary to vote for Selective Service extensions though they did not intend to authorize the war and would not have voted to authorize the war.

7. Legislators have no remedy in Congress which is the equivalent to their Constitutional prerogative, given by Article I Section 8 Clause 11, to refuse to declare or authorize war. If Congress were to enact a bill cutting off the use of funds or troops for the war, the President of the United States could veto it, thus necessitating a two-thirds vote in each house of Congress to override the President's veto. The necessity for a two-thirds vote is substantially different from the need for only a majority to defeat any declaration or authorization of war. There could easily be an absolute majority against declaring or authorizing war, but this would be insufficient to override a veto.

8. Federal legislators, who are in the best position to know, state that there has been no bill or resolution in Congress declaring or authorizing war. Moreover, the legislators have and still do refuse to declare or authorize war in Indo-China.

9. Based on their experience in Congress, legislators believe that appropriations and selective service renewals involve just too

many problems to be an effective method of registering Congressional authorization for a war. If separation of powers is to be maintained, and if Congress' power over war is to be maintained with integrity, the President should have to get explicit and intentional Congressional authorization for war.

The above points made in legislators' affidavits are echoed by statements made by legislators on the floor of Congress. A collection of these statements is contained in Appendix A, *infra*. They show that appropriations bills and selective service renewals are not intended as authorization of war, but are enacted for other reasons entirely.

In addition to not meeting the criterion of intentionality, appropriations bills and selective service renewals also fail to meet the criterion that a constitutional authorization of war need be specific. Thus the suggestion that appropriations or the draft authorize a war results in the constitutionally impermissible consequence of totally transferring from Congress to the Executive the power to decide whether, against whom, and where to fight a war.

Events in the Vietnam war provide practical confirmation of this. The Executive, arguing at each step that prior appropriations or the Selective Service Act authorize his actions, has over time changed the nature of the American military commitment in terms of enemies and geography. Starting with relatively small engagements against the Viet Cong in South Vietnam, the war was expanded so that ultimately the United States was also fighting the North Vietnamese and engaging in armed hostilities in or over Laos, Cambodia, and North Vietnam. The surprise registered in Congress and in the public at large when the President moved troops into Cambodia in the spring of 1970 provides further indication of the patent falsity of any claim that appropriations and draft extensions authorize a war. When Congress enacted appropriations bills and extended the Selective Service, it had no way of knowing that the President was going to invade Cambodia. Finally, if appropriations and the Selective Service serve to authorize a war, then even today the President can engage this nation in any war, against any other country, and in any corner of the globe, on the theory that already existing appropriations serve to authorize his actions or that later ones will serve to ratify a war which Congress could not have foreseen in the first place.

For the Executive to argue at any point in time that future Congressional appropriations or additions to the draft will ratify what he had decided to do is an invalid argument for another reason as well: it proceeds on the assumption that in the present the President has a constructive authorization to make war. But the content of that constructive authorization would ipso facto be unconstitutionally vague and hence impermissible as a delegation of power, since it purports to authorize in the present any decision by the President to go to war against any country in any location. Thus, even on the Executive's own theory of future potential ratification, the constructive delegation of power that results lacks the specificity required of any delegation if it is to be a constitutional authorization rather than a wholesale transfer of power from one branch of government to the other.

Appropriations and the draft also fail to meet the third criterion that an authorization of war need be separate and distinct from other legislation rather than being inferred from the passage of legislation which may be vital to the national security and which therefore cannot be turned down by Congress. Obviously this nation needs an army in order to provide us with a defense and a deterrent against potential assailants in this dangerous world. This need for military preparedness exists wholly apart from

the Southeast Asian war, and thus Congress has seen fit to institute and renew the draft. It is also obvious that this nation needs defense appropriations if it is to sustain the armed forces which are necessary to provide national security. Thus, to infer authorization from the existence of appropriations and the draft is to force Congressmen into a dilemma where they must either refuse to enact legislation which is vital to national security, or risk having the passage of such legislation be construed as an authorization for war—an authorization, moreover, for past acts of war which have already taken place and so cannot be stopped, and for future acts of war which will in turn become facts accomplished by the time of the next annual budget or proposed renewal of Selective Service, when they will be used in a new round of forcing Congressmen into the same dilemma they previously faced.

Though appropriations bills and Selective Service renewals do not meet the criteria that an authorization of war need be explicit, intentional, and discrete, in prior cases defendants have tried to circumvent this by relying on the fact that (1) in May 1965 and March 1967 Congress enacted supplemental appropriations for use in Vietnam, and (2) some general military authorization or appropriations bills have contained provisions saying that their monies could be used in connection with Vietnam. However, the supplemental bills and aforesaid provisions in general appropriations bills did not constitute an explicit, intentional and discrete authorization of a major war. They clearly were not intended to authorize war. As shown by the legislators' affidavits filed in this case, and by floor statements contained in Appendix A, supplying or permitting monies to be used in Vietnam was merely a recognition of the fact that men who were already in combat must be provided with the ammunition, food and materiel requisite to their survival.

Moreover, since the nation was already engaged in a major Presidential war, it would have been anomalous and absurd for Congress not to know and understand that a portion of the nation's military budget was being utilized by the Executive to prosecute that war. Hence, reference in a military authorization or appropriations bill to using money in Vietnam was nothing more than a recognition of what was occurring anyway in the full glare of public knowledge. That such references were not authorizations of war is shown by the Congressmen's affidavits stating that military authorization or appropriations bills were not intended to authorize war. Moreover, some defense appropriations bills have contained references to Vietnam and others have not. The presence or absence of such references has made no substantive difference whatsoever in the Executive's use of appropriations to finance the Indo-China war.

Further, if the defendants would have the legality of their actions stand or fall on the fact that there were early supplemental appropriations for Vietnam and general authorization bills have sometimes contained provisions stating that monies could be used in Vietnam, then it is clear that defendants' actions in and over Laos and Cambodia, such as the continuing heavy bombing, are illegal. For the bills do not say that monies can be used for actions in and over the nations of Laos and Cambodia, as opposed to some references in the bills to the nation of Vietnam. Clearly, then, the Executive has seized upon the military authorization and appropriations bills, and the provisions therein, as an ex post facto rationalization for its conduct in a war that has not been authorized by Congress.

In view of the foregoing arguments, it can be seen that the integrity of Congress' power to make the decision on war is destroyed if appropriations bills and Selective Service re-

newals are held to be an authorization of war. At the very least, a court should not attempt to reach such a holding without first hearing the experts on the legislative process, namely, federal legislators themselves. Affidavits and testimony are essential before the judiciary can characterize the legislative process as implying an authorization of war from appropriations bills and Selective Service renewals. In this regard, it is important to note that such affidavits and testimony are not offered for the mere purpose of construing ambiguous language in a statute by giving evidence of legislative intent. Rather, the purpose of the legislators' affidavits and testimony is to reveal that Congressmen were not in the position to make a decision on whether to fight a war—as required by Article I Section 8 Clause 11—in the specialized and structured context of appropriations bills and Selective Service renewals. The question is one of mixed fact and law: the facts relating to the realities of the legislative process as illuminated by this testimony of expert participants; and the law relating to a realistic construction of the Constitutional clause which vests in Congress the right and power to decide on war.

(b) *The Appropriations and Selective Service Argument Distorts the Constitutional and Legislative Processes:* It has been shown that the three criteria for a valid authorization of war are not met by the Executive's argument that appropriations and the Selective Service renewals serve to authorize the war in Southeast Asia. The Executive's argument also must fall because it grossly distorts the Constitution and the legislative process. As has been pointed out before, the Framers of the Constitution intended that Congress make the decision on whether to go to war. However, if the President can take the nation into war without a Congressional authorization, and if the war becomes legal if Congress later appropriates money or renews the draft, then the President—not Congress—will have the power to make the initial decision on war, and Congress will be reduced to merely having a veto power involving the cutting off of the appropriations necessary to support men in battle. Moreover, since appropriations for the armed forces are normally made for a period of one year, and army appropriations can be made for up to two years, the President will be able to fight a war for a very long period of time, on the basis of preexisting appropriations, before new funds are refused by Congress.

All of this destroys our plan of government. Since under the appropriations and selective service argument the Executive will be able to take the nation into war in the first instance, it was a useless and nonsensical act for the Framers in Article I, Section 8, Clause 11 to give Congress the power to make the decision whether this country shall fight a war. Since the Executive will be exercising the war-deciding power which the Constitution reserves to Congress, the Constitutional separation of powers is destroyed. Since the Congressional role will be reduced to merely vetoing a war it does not like, the constitutional scheme by which Congress has the lawmaking power and the President the veto power will be turned around, so that the President has the lawmaking power and Congress has the veto power.

There are also other highly important ways in which the Executive's appropriations and selective service argument distorts the Constitution and the legislative process. The framers deliberately structured the Constitution so as to make it difficult to get into war. This purpose is carried out if a declaration of war or a specific, intentional and discrete authorization of war are required before a war is legal. For in such case, the proponents of war have to carry the burden of convincing a majority in each house to

vote for war. This would be no easy burden of persuasion in regard to guerilla wars on far-off continents: many legislators would wish to be very careful and deliberate before committing the nation to such a war. The power of committee chairmen, committee rules, floor rules, and filibuster rules could easily work against the proponents of war, because such factors can make it difficult to pass legislative enactments such as a war bill. Finally, the President would have to sign the authorization of war.

Moreover—and very importantly—unlike the situation that exists with regard to appropriations and selective service renewals, the Congress, in deciding whether to enact a declaration of war or a specific, intentional and discrete authorization of war, will not have to feel that it will be unconscionably denying funds or support to men who face death in combat if it should refuse to authorize war. The war will be illegal if Congress refuses to authorize it, but funds could be provided to our forces until they are withdrawn from the war, a withdrawal which the President would be constitutionally required to undertake with maximum possible speed. Also, and again unlike the situation with appropriations and selective service extensions, Congress, in deciding whether to declare or specifically, intentionally and discretely authorize war, would not have to feel that a refusal to do so would result in a failure to acquire essential armaments and materiel or in the lack of an army to defend ourselves.

But the legislative process and the Constitution are reversed if appropriations and selective service can authorize war. For now the President by his own decree can take the country into war without Congressional authorization, and his war will be legal unless Congress cuts off money or manpower. The burden of obtaining a majority in each house will not be on the proponents of war, but upon the opponents who wish to enact the legislation cutting off money or manpower. The power of committee chairman, committee rules, floor rules and filibuster rules will now work against the opponents of war, because these factors can stymie attempts to secure legislative enactments.

The power of committee chairman, and their ability to determine the application of committee rules and floor rules, is not to be underestimated. Take the 1967 selective service act, for example. The government has relied on this draft extension act as being intentional Congressional authorization of war. Yet it has been recently pointed out that, because of the virtually dictatorial exercise of power by the extremely hawkish late Chairman of the House Armed Services Committee, Mendel Rivers, debate on the floor of the House of Representatives on the 1967 draft act was permitted to extend for less than two hours. Rosenbaum, *The Age of Herbert: Dissent Now Fostered on Key House Panel*, New York Times, April 13, 1971, p. 26. col. 1 at col. 4. Mr. Rivers was intolerant of opposition to his wishes and often obtained time limitations on debates over Armed Service Committee bills. Such circumstances further illustrate the degree of constitutional distortion which exists if appropriations and selective service renewals constitute an authorization of war.

If the opponents of the war did somehow succeed in fulfilling the incredibly difficult burden of obtaining a majority in each house willing to overturn a presidential fait accompli by voting for a restriction against funds or men being used for on-going combat activities (a kind of restriction which has never been enacted in American history), then the President could veto the bill, which would mean that the opponents of war would then have the burden of obtaining a 2/3 majority in each house before Congress could override the President. In sum, if appropriations or selective service authorize war,

then instead of it being hard to get into war and easy to get out, as the framers intended, it will be easy for the President to get us into war and hard for the Congress to get us out. Clearly, the integrity of Congress' power to make the decision on war will be defeated.

As a constitutional matter, courts should not countenance Executive arguments which grossly distort the Constitution and destroy the integrity of a clause as critical as the declaration of war power. Moreover, there is surely no practical need to countenance such arguments. If Congress really believed we should fight a war, there is no doubt that the President would be able to secure passage of a proper declaration or specific, intentional and discrete authorization of war. Congressmen are patriots no less than the President: they will not sit idly by and refuse to authorize hostilities if they feel the nation's interests are truly threatened. Moreover, the President does not lack for ample means of persuasion, as evidenced by his access to the media, his position as national leader, his position as chief of his party, his patronage power and his fund raising capabilities.

Rather than countenancing the Executive's Constitution-destroying arguments, the great need today is to restore the balance in government which was sought by the framers. The Executive has clearly become an overly powerful usurper in the area of deciding to go to war, and has used arguments like appropriations and selective service renewals as rationalizations for its illegal conduct. As Justice Jackson pointed out in *Youngstown Sheet and Tube Co. v. Sawyer*, 343 U.S. 579, 653-54 (1952) (concurring opinion), the Courts should not place their imprimatur upon such aggrandizement of the power of an Executive which already has more than ample power—which has far more power than the framers dreamed possible:

"[I]t is relevant to note the gap that exists between the President's paper powers and his real powers. The Constitution does not disclose the measure of actual controls wielded by the modern presidential office. That instrument must be understood as an Eighteenth-Century sketch of a Government hoped for, not as a blueprint of the government that is. Vast accretions of federal power, eroded from that reserved by the States, have magnified the scope of presidential activity. Subtle shifts take place in the centers of real power that do not show on the face of the Constitution.

"Executive power has the advantage of concentration in a single head in whose choice the whole Nation has a part, making him the focus of public hopes and expectations. In drama, magnitude and finality his decisions so far overshadow any others that almost alone he fills the public eye and ear. No other personality in public life can begin to compete with him in access to the public mind through modern methods of communications. By his prestige as head of state and his influence upon public opinion he exerts a leverage upon those who are supposed to check and balance his power which often cancels their effectiveness.

"Moreover, rise of the party system has made a significant extraconstitutional supplement to real executive power. No appraisal of his necessities is realistic which overlooks that he heads a political system as well as a legal system. Party loyalties and interests, sometimes more binding than law, extend his effective control into branches of government other than his own and he often may win, as a political leader, what he cannot command under the Constitution. Indeed, Woodrow Wilson, commenting on the President as leader both of his party and of the Nation, observed, 'if he rightly interpret the national thought and boldly insist upon it, he is irresistible . . . His office is anything he has the sagacity and force to make it.' I cannot be brought to believe that this country will

suffer if the Court refuses further to aggrandize the presidential office, already so potent and so relatively immune from judicial review, at the expense of Congress."

When one considers that Congressmen are patriotic men who would authorize war if they felt the nation's interests are truly threatened, and when one considers the vast political power of the President, then it is very revealing that at no time during the longest war in the nation's history has Congress enacted a war bill authorizing the hostilities. Indo-China has in all likelihood provided the nation with an example of a war in which the President could at no time have gotten a majority of Congress to authorize getting into or lengthily staying in war, but once he got the country mired in war, a majority of Congress (or two-thirds if necessary to override a Presidential veto) could not be amassed to get the nation out of the war. If the judiciary approves the Executive's constitution distorting appropriations and selective service arguments, then there will be an open invitation for some future Presidential war which is not authorized by Congress but as which it proves impossible to amass the requisite 51% or $\frac{2}{3}$ veto-overriding Congressional majorities for getting out of war by cutting off funds and manpower. The present case speaks not just to Indo-China, but to possible protracted warfare in the future.

(c) *The Appropriations and Selective Service Argument Is Contrary to Existing Law*: The Supreme Court has never held, when important constitutional matters are involved, that appropriations provide a legal basis for Executive action that is otherwise of dubious constitutionality. In *Greene v. McElroy*, 360 U.S. 474 (1959), the petitioner lost his job with a defense contractor as a result of the revocation of his security clearance by the Department of Defense. The Department's security program was in apparent conflict with the requirements of constitutional due process, and this was the critical factor leading the Court to hold that the security program had not been authorized by Congressional appropriations. The Court said:

"[The Executive argues that] Congress, although it has not enacted specific legislation relating to clearance procedures to be utilized for industrial workers, has acquiesced in the existing Department of Defense program and has ratified it by specifically appropriating funds to finance one aspect of it.

"If acquiescence or implied ratification were enough to show delegation of authority to take actions within the area of questionable constitutionality, we might agree with respondents that delegation has been shown here. In many circumstances, where the Government's freedom to act is clear, and the Congress or the President has provided general standards of action and has acquiesced in administrative interpretation, delegation may be inferred. Thus, even in the absence of specific delegation, we have no difficulty in finding, as we do, that the Department of Defense has been authorized to fashion and apply an industrial clearance program which affords affected persons the safeguards of confrontation and cross-examination. But this case does not present that situation. We deal here with substantial restraints on employment opportunities of numerous persons imposed in a manner which is in conflict with our long-accepted notions of fair procedures. Before we are asked to judge whether, in the context of security clearance cases, a person may be deprived of the right to follow his chosen profession without full hearings where accusers may be confronted, it must be made clear that the President or Congress, within their respective constitutional powers, specifically has decided that the imposed procedures are necessary and warranted and has author-

ized their use. Such decisions cannot be assumed by acquiescence or non-action. They must be made explicitly not only to assure that individuals are not deprived of cherished rights under procedures not actually authorized, see *Peters v. Hobby*, supra, but also because explicit action, especially in areas of doubtful constitutionality, requires careful and purposeful consideration by those responsible for enacting and implementing our laws. Without explicit action by lawmakers, decisions of great constitutional import and effect would be relegated by default to administrators who, under our system of government, are not endowed with authority to decide them." (Id. at 506-07; emphasis added, footnote and citations omitted.)

In the present suit, important constitutional matters are at stake and thus, like *Greene*, authorization should not be inferred from appropriations. Rather, there should be "explicit action" based upon "careful and purposeful consideration by those responsible for enacting and implementing our laws." Id. at 507. For without "explicit action by lawmakers" a decision of "great constitutional import and effect," namely the decision whether to go to war, "would be relegated . . . to administrators who, under our system of government, are not endowed with authority to decide them." Ibid.

In *Ex Parte Endo* 323 U.S. 283 (1944), the Supreme Court refused to find that appropriations ratified Executive action in a case involving the personal liberty of a conceded-ly loyal person of Japanese ancestry.

In the past the Executive has cited *Isbrandsten-Moller Co. v. United States*, 300 U.S. 139 (1937), *Fleming v. Mohawk Wrecking Co.*, supra, *Brooks v. Dewar*, 313 U.S. 354 (1941), and *Ludecke v. Watkins*, 335 U.S. 160 (1948), for the proposition that appropriations can ratify Executive action. From these cases it has deduced that defense appropriations authorize the current war. However, *Isbrandsten*, *Fleming* and *Brooks*, unlike *Greene* or the present case, did not involve critical constitutional issues revolving about specific constitutional provisions. They involved issues which were trivial in comparison to those of the present case. Those cases thus cannot be taken to mean that appropriations serve to authorize Executive action of dubious legality in cases involving critical constitutional issues governed by constitutional provisions. The *Ludecke* case did involve an important matter, but the case does not stand for the proposition that appropriations ratify Executive actions which are otherwise illegal. The relevant issue was whether, under a particular statute, the President had power to act subsequent to the cessation of actual hostilities in World War II. Without so much as mentioning appropriations, the Supreme Court ruled that the statute itself gave him this power. In a footnote subsequent to the ruling, the Supreme Court included some dicta on appropriations, and even here the main burden of the dicta was that, in appropriating money, Congress had merely recognized that the statute itself had given the President the power to act after the cessation of hostilities. All of this is a far cry from saying that appropriations authorize the President to exercise a power he does not already have under a statute or under the Constitution.

(d) *Summation of the Appropriations and Selective Service Argument*: It has been shown above that appropriations and the renewal of the draft do not meet the three criteria for a specific and intentional and discrete authorization which is the equivalent of a declaration of war. It has been shown that the Executive's appropriations and draft argument warps the Constitution. And it has been shown that the Executive's appropriations and draft argument is contrary to existing law. Thus the appropriations and Selective Service actions by Con-

gress cannot constitute the constitutional equivalent of a declaration of war.

The foregoing arguments are even more compelling when it is realized that ready at the hand of Congress there exists a plain and clear vehicle, a wholly reasonable and adequate alternative, by which Congress can authorize war without warping the Constitution or prior law: Congress can specifically and intentionally authorize war in a bill which is separate and distinct from other legislation. During the long history of the Vietnam war, America's most protracted war, Congress at any time at its convenience could have made such a specific and intentional authorization of war if it had desired to authorize the war.

3. *The Gulf of Tonkin Resolution was Not Equivalent to a Congressional Declaration of War:* The Gulf of Tonkin Resolution of August 10, 1964, Public Law No. 88-408, 78 Stat. 384 (1964), is no longer in effect, having been repealed by Congress, P.L. 91-672, § 12.

Since the present suit alleges a continuing impairment of the plaintiffs' legislative prerogatives, strictly speaking nothing more need be said about the Gulf of Tonkin Resolution than the fact that it is of no present legal effect and thus is irrelevant to the present proceedings.

However, we dispute even any past relevancy of the Gulf of Tonkin Resolution to the power and right of Congress to declare or authorize the major war in Indo-China.

Only three years after its passage in 1964, President Johnson disclaimed the Gulf of Tonkin Resolution as being necessary for authority to carry on military operations in Southeast Asia. President Johnson said in a news conference: "We did not think the resolution was necessary to do what we did and what we are doing." Hearings on S. Res. 151 before the Senate Comm. on Foreign Relations, 90th Cong., 1st Sess. 126 (1967). Nor does the current administration of President Nixon rely for authority upon the Gulf of Tonkin Resolution. On March 12, 1970, in response to a letter from Senator Fulbright, H. G. Torbert, Jr. stated on behalf of the Department of State:

"[T]his administration has not relied on or referred to the Tonkin Gulf resolution of August 10, 1964, as support for its Vietnam policy. . . . [T]he administration does not consider the continued existence of th[is] resolution . . . as evidence of congressional authorization for or acquiescence in any new military efforts or as substitute for the policy of appropriate and timely congressional consultation to which the administration is firmly committed. . . ." S.R. No. 91-872, 91st Cong., 2d Sess. 20-21 (1970).

Recently, Senator Dole, as a spokesman for the current Administration, reaffirmed that the Executive does not rely on the Gulf of Tonkin Resolution for authorization to conduct the current level of military activity in Southeast Asia. In response to questions of Senator Eagleton as to whether the administration relied on the Resolution, Senator Dole stated:

"[T]his Administration has not relied upon the Gulf of Tonkin Resolution and does not now rely on the Gulf of Tonkin Resolution." 116 Cong. Rec. 9591 (daily ed. June 23, 1970).

The Executive should not be heard to disclaim reliance upon the Gulf of Tonkin Resolution in the houses of Congress, and then rely upon that same Resolution in a court of law. The defendants in the present case should not be heard to rely upon the Resolution as a constitutional basis for their actions.

The aforementioned disclaimers of reliance by the Executive are indeed well-founded since the Executive is aware that Congress, in passing the Resolution, had no intention of giving the Executive the authority to increase the level of military activity, to change the nature of the military operations, or to ex-

pand the geographical scope of the war in Southeast Asia. Although the Resolution has broad, ambiguous wording, it has a very narrow intent since it was enacted in response to a particular claimed set of circumstances, constituting a crisis situation, which the Executive represented as having occurred in the Gulf of Tonkin. On August 5, 1964, in asking Congress for "a Resolution expressing the unity and determination of the United States in supporting and in protecting peace in Southeast Asia," the Executive reported that on August 2 and August 4, 1964, two United States naval vessels operating in international waters in the Gulf of Tonkin were attacked by North Vietnamese patrol boats, and that on August 4, 1964, in response to these incidents he had ordered retaliatory air attacks on the North Vietnamese torpedo boat bases and their oil-storage depots. 110 Cong. Rec. 18132 (1964). As the March 20, 1970 letter to Senator Fulbright from H. G. Torbert, Jr. explains, Congress passed the Resolution in response to a crisis situation and understood that it only approved the Executive's limited response to that crisis and did not authorize increased military activity in Southeast Asia:

"Each of the resolutions specified in section 1 [Formosa resolution, Middle East resolution, Cuba resolution and Gulf of Tonkin resolution] was passed in response to a crisis situation in the affected area. Thus . . . the Tonkin Gulf resolution responded to an assault upon our naval forces in international waters. . . ."

"The crisis circumstances giving rise to these Resolutions have long since passed. As indicated by the specific analyses below, the administration is not depending on any of these Resolutions as legal or Constitutional authority for its present conduct of foreign relations or contingency plans." S.R. No. 91-972, 91st Cong., 2d Sess. 20 (1970).

That the Resolution was enacted in response to a crisis situation, i.e. the alleged attack on United States naval vessels in the Gulf of Tonkin, and approved a limited response to that crisis situation and was not intended to authorize greatly increased levels of military activity or to allow the Executive to prosecute a war, is clear from the comments which the Executive, the Congressmen and the Senators made during the debates on the Resolution.

The Congress adopted the Gulf of Tonkin Resolution on August 7, 1964 and the President signed it on August 10, 1964. In his message to Congress on August 5, 1964 requesting the Resolution, the President made it clear that he was not asking Congress to authorize greater levels of military activity or to change the nature of the military operations in the Indochina area:

"As I have repeatedly made clear, the United States intends no rashness and seeks no wider war." 110 Cong. Rec. 18132.

At the time of the Executive's request, the level of military forces was between 17,000 to 18,000 troops. 116 Cong. Rec. 9591 (daily ed. June 23, 1970) (Remarks of Senator Dole). By the end of 1964, the military forces in Vietnam had not greatly increased and are reported to have totaled 23,300. U.S. Bureau of the Census, Statistical Abstract of the United States: 1968, 258 (89th ed. 1968). Statements made on the floor of Congress indicate that Congress did not intend to authorize an increase over the then current level of military operations in Vietnam. Senator Fulbright, one of the sponsors, indicated that the purpose of the resolution was "to prevent the spread of war, rather than to spread it." 110 Cong. Rec. 18462.

During the debates on the Tonkin Resolution, Senator Brewster, observing that he "would look with great dismay on the landing of large American armies on the continent of Asia," asked Senator Fulbright whether there was anything in the resolution which would authorize or recommend or ap-

prove the landing of large American armies in Vietnam or China. Id. at 18403. Senator Fulbright replied, "There is nothing in the Resolution, as I read it, that contemplates it. I agree with the Senator that that is the last thing we would want to do." Id. Senator Morton also shared Senator Brewster's concern that the United States might send large American armies to southeast Asia. Id. at 18404. Senator Fulbright again agreed that the purpose of the Tonkin Resolution was to prevent this from happening. Id. Senator Nelson then asked whether Congress, by enacting the Tonkin Resolution, would be agreeing in advance that the President could land as many divisions as he deemed necessary and could then engage in direct military assault on North Vietnam. Id. at 18406. In response, Senator Fulbright indicated that this was not the sense of the Resolution and that he thought it would be very unwise under any circumstances to put a large land army on the Asian continent. Senator Nelson also made the following statement:

"(B)y enacting the resolution Congress should [not] leave the impression that it consents to a radical change in our mission or objective in South Vietnam. . . . I would be most concerned if the Congress should say that we intend by joint resolution to authorize a complete change in the mission which we have had in South Vietnam for the past 10 years and which we have repeatedly stated was not a commitment to engage in a direct land confrontation with our Army as a substitute for the South Vietnam Army or as a substantially reinforced U.S. Army to be joined with the South Vietnam Army in a war against North Vietnam and possibly China. Id. at 18407."

Senator Russell was also of the opinion that the purpose of the Resolution was to approve the retaliatory action that the President ordered in defense of the United States ships in the Gulf of Tonkin. Id. at 18411. On the House side, Representative Morgan, Chairman of the House Committee on Foreign Affairs, stated unequivocally, "The Resolution is definitely not an advance declaration of war. The committee has been assured by the Secretary of State that the constitutional power of Congress in this respect will continue to be scrupulously observed." Id. at 18539. On this same point, Congressman Adair indicated that Congress did not want the approval of the Tonkin Resolution to indicate that Congress was giving approval in advance for the President to take such actions as he might see fit to take in the future. Id. at 18543. Moreover, Congressman Fascell explicitly stated:

"This resolution is not a declaration of war. The language of the resolution makes that clear as does the legislative history. Therefore this resolution in no way impinges on the prerogative of the Congress to declare war. Furthermore, no one here today has advocated a declaration of war. . . ."

"Mr. Speaker the pending resolution does, however, ratify and support the military action recently ordered and taken by President Johnson to respond to the unprovoked Communist armed attack against the U.S. Navy while in international waters." Id. at 18549.

It is evident that it was not the intention of Congress to authorize an increased level of military operations in Indochina. Rather the Resolution was meant only as approval of the Executive's use of force in response to an armed attack on United States Navy vessels. Section 1 of the Resolution makes this quite clear through the language which says that Congress "approves and supports" the Executive's exercise of his constitutional authority in response to the crisis in the Gulf of Tonkin. Section 2 of the Gulf of Tonkin Resolution is nothing more than the statement of "unity and determination" requested by the President. In that section Congress did not declare war; instead it affirmed that "consonant with the Constitu-

tion . . . the United States is . . . prepared . . . to take all necessary steps . . ." One of the necessary steps, of course, would be specific and intentional authorization by Congress for increased levels of military activity and operations in Southeast Asia.

The foregoing analysis should serve to make it clear why even the Executive feels that its legal position is not helped by the Gulf of Tonkin Resolution. But even apart from that, it is clear that the Resolution does not satisfy the criteria of specificity and intentionality (although it does satisfy the third criterion of discreteness) which are necessary to any authorization that could be deemed the equivalent of a Congressional declaration of war. Contemporaneous statements of Congressional leaders, as well as the face of the Resolution itself, reveal that the Resolution is a declaration of confidence in the President and a statement of future intention to support him and his policies. It is certainly not a conscious act equivalent to a declaration of war.

But even if it were conceded for the moment that the Gulf of Tonkin Resolution was intended by Congress to be a declaration of war, then the Resolution still could not be given that legal effect because the Resolution on its face lacks the specificity requisite to the equivalent of a declaration of war. Couched in general terms, and on its face delegating to the President the power to decide whether or not to engage in military hostilities, the Resolution would be a wholesale transfer of power to the President. Such a wholesale transfer of Congress' power is clearly an impermissible delegation of legislative power to the President. It would amount to an amendment to the United States Constitution by legislative action and not by the procedures specified in the Constitution itself in Article V.

Apart from all these reasons, there is at present a considerable body of eminently respectable opinion which holds that the Executive obtained passage of the Gulf of Tonkin Resolution by seriously misleading Congress as to the events in the Gulf of Tonkin that occasioned the Resolution. See generally, *The Gulf of Tonkin: The 1964 Incidents, Hearings Before the Comm. on Foreign Relations, U.S. Senate, 90th Cong., 2nd Sess.*; Pusey, *The Way We Go To War* 115-34 (1969). If passage of the Resolution was indeed obtained by misleading Congress, then serious questions would be raised whether the Resolution could serve as a basis for war. Congressmen's affidavits filed in the present case indicate that Congress was misled by the Executive in being asked to pass the Gulf of Tonkin Resolution in response to the alleged attack upon two United States destroyers in the Gulf of Tonkin. To the extent that the defendants in the present case would seek to rely upon the Gulf of Tonkin Resolution in support of the war in Indo-China, this court should entertain testimony to the effect that such Resolution was void due to its being passed in response to a situation that was an artificial invention of the Executive, and not in response to an actual situation obtaining in the real world. The defendants should, in effect, be estopped to make an argument based on the Gulf of Tonkin Resolution by virtue of the conduct of their predecessors in office who misled Congress as to the situation in the Gulf of Tonkin.

4. *The SEATO Treaty Is Not Equivalent to a Congressional Declaration of War:* The Southeast Asia Collective Defense Treaty, T.I.A.S. 3170, known as the SEATO Treaty, has at times been mentioned as affording legal justification for the war in Vietnam. However, the operative language of the SEATO treaty provides, in Article IV, that in the event of aggression against any of the Parties to the treaty, each Party agrees to act "in accordance with its constitutional processes." It is clear that this language

funnels back to the United States Congress the decision to go to war under the procedures specified in the United States Constitution and thus obviously cannot purport to be a substitute for the considerations adduced elsewhere in this Brief. Even if the treaty did not contain this explicit language, the treaty provisions, whatever they are, cannot override the Constitution, since the United States has no constitutional power to commit itself to any treaty that overrides the Constitution. *Reid v. Covert*, 354 U.S. 1. Thus it would be frivolous to contend that the issues in the present case are, or can be affected by the SEATO treaty.

III. STANDING TO SUE

A. *As a Legislator, Each Plaintiff Has Standing to Protect His Constitutional Power and Right to Participate in the Decision By Vote on War:*

1. *Standing Under the Voting Cases:* Under the relevant Supreme Court decisions, a party has standing if he possesses a personal stake in the controversy such as to ensure the adversariness which illuminates the issues, and if he is arguably within the zone of interests protected by the constitutional provisions he invokes. *Flast v. Cohen*, 392 U.S. 83 (1968); *Association of Data Processing v. Camp*, 90 S.Ct. 827 (1970); *Barlow v. Collins*, 90 S.Ct. 832 (1970). The federal legislators who are plaintiffs in this case have a clear personal stake in maintaining the effectiveness of their constitutional power and right to be decision-makers on whether this nation shall fight a war. They have alleged facts in their affidavits showing "disadvantage to themselves as individuals." *Baker v. Carr*, 369 U.S. 186, 206 (1962). They have alleged "impairment of their votes." *Id.* at 208. They are asserting "a plain, direct and adequate interest in maintaining the effectiveness of their votes." *Coleman v. Miller*, 307 U.S. 433, 438 (1939). They have a clear personal stake as legislators in seeing to it that the Executive does not usurp and preempt the constitutional power of themselves and other legislators by fighting a war that has not been authorized by themselves or other legislators. As legislators, to whom the declaration-of-war clause commits the decision whether to fight a war, plaintiffs are "within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question." *Association of Data Processing v. Camp*, *supra*, at 830.

1. In a long string of voting and reapportionment cases, the Supreme Court has been zealous to protect the right of an individual fully and equally to participate in the process of making decisions by vote. *E.g.*, *Baker v. Carr*, *supra*; *Gray v. Sanders*, 372 U.S. 368 (1963); *Wesberry v. Sanders*, 376 U.S. 1 (1964); *Reynolds v. Sims*, 377 U.S. 533 (1964); *Carrington v. Rash*, 380 U.S. 89 (1965); *Harper v. Virginia Board of Elections*, 383 U.S. 663 (1966); *Kramer v. Union Free School District*, 395 U.S. 621 (1969); *Cipriano v. City of Houma*, 395 U.S. 701 (1969); *Phoenix v. Kolodziejski*, 399 U.S. 204 (1970). The Court has pointed out that the right to vote is a critical right because it is preservative of other rights. *Reynolds v. Sims*, *supra*, at 562. When an individual is a member of a group which has the right and duty to vote on a matter, he must be permitted to vote on it before substantive action is taken. The power of his vote cannot be diluted or infringed by being weighted less than other votes; still less can his vote be excluded from the decision being balloted upon, or totally ignored. *Reynolds v. Sims*, *supra*; *Wesberry v. Sanders*, *supra*; *Kramer v. Union Free School District*, *supra*; *Phoenix v. Kolodziejski*, *supra*; *United States v. Classic*, 313 U.S. 299 (1941); *Smith v. Allwright*, 321 U.S. 649 (1944); *Terry v. Adams*, 345 U.S. 461 (1953). The high importance attached by the Court to neither diluting, excluding, ignoring nor infringing one's vote is shown

by numerous cases holding that the vote cannot be impaired by under-weighting, false tallies, a refusal to count ballots, exclusion of voters, or other and sophisticated means. *E.g.*, *Baker v. Carr*, *supra*; *United States v. Classic*, *supra*; *United States v. Mosley*, 238 U.S. 383 (1915); *Ex parte Siebold*, 100 U.S. 371 (1879); *United States v. Saylor*, 322 U.S. 385 (1944); *Gomillion v. Lightfoot*, 364 U.S. 339 (1960).

2. When one brings a legal challenge asserting that his vote is being diluted, excluded, or ignored, the Supreme Court has said he has standing to challenge the voting system which impairs his vote. *Baker v. Carr*, *supra*. This right of standing is now so clear as not even to be in issue in recent cases such as *Kramer v. Union Free School District*, *supra*, and *Phoenix v. Kolodziejski*, *supra*. Whether the substantive policy wishes of the plaintiff bringing the challenge to the voting system would have been carried out if he had had a full and equal opportunity to participate in the voting decision—whether the choice of candidates, or bond issue, or other policy issues would have been decided as he desired—has been irrelevant to the question of standing. The plaintiff need not show he would win in the process of decision by voting, and it is irrelevant for his opponent to show that the plaintiff would have lost. Indeed, in *Lucas v. Colorado General Assembly*, 377 U.S. 713 (1964), the opponent of the challenging party did show, but to no avail, that the wishes of the challenging party had been voted down by a majority in every county in the general election. The only critical factor for purposes of standing has been that the right to play a full and equal part in the process of decision by voting must be kept inviolate because the vote is a critical right and "is personal". *Reynolds v. Sims*, *supra*, at 561.

3. Just as an individual citizen has standing to challenge actions which dilute, exclude, or ignore his role in the process of making decision by vote, so each individual Congressman in this case has standing to challenge Executive action diluting, excluding, ignoring, or otherwise infringing the Congressman's role in the decision by vote on whether this nation shall fight a war. The Supreme Court has pointed out that "representative government is in essence self-government through the medium of elected representatives." *Reynolds v. Sims*, *supra*, at 565. It is an obvious and basic assumption of a system of self-government through elected legislative representatives that the constitutional decision-making power of the representatives must be maintained. Indeed it would be inconsistent for courts to posit that the right of citizens to vote for legislators must be protected because we have self-government through the medium of elected representatives, but to then refuse to protect the decision-making power of the legislative representatives themselves who constitute the medium. It is thus critical for courts to secure the right of each legislative representative to participate in a decision by vote on war against nullification or infringement by the Executive.

4. As earlier argued in this Brief, the Executive has in fact fought a war without regard to the right of each legislator to participate in a decision on whether the nation shall fight, and has thereby diluted, ignored, nullified and infringed the constitutionally given prerogative of each plaintiff herein to participate in a decision on war. Moreover, this Executive dilution, nullification, and infringement has not been something which occurred but once and then ceased. Rather, by continuing the war for nearly seven years, the Executive has continued every day to ignore, nullify, and infringe the plaintiffs' right to participate in a decision by vote on war before the war can be lawfully continued. Therefore, the standing of the plaintiffs cannot be defeated by any argument

that they are challenging a war which has been in progress for a considerable time.

That Congress has never authorized the war is clear. Congress has never declared war with respect to Indo-China. Nor has it ever enacted a bill or resolution which authorized that war. The Executive claims that appropriations and Selective Service renewals were authorizations of war, but in fact they were no such thing, as shown by the affidavits filed by legislators in this case and by ample legislative history. Moreover, the affidavits filed herein state that Congressmen every day refuse to declare or authorize war in Indo-China: they do this by refusing to vote for any bill or resolution that could be introduced for the purpose of declaring or authorizing a general or limited war in Indo-China. The conclusion is clear, then, that the Executive is fighting a war which has not been authorized by the members of the Congress of the United States, who are the only individuals having the constitutionally given power to authorize war.

5. A congressman has standing to invoke judicial protection for his right to participate in a decision by vote on whether the nation shall fight a war. As a legislator, he has a vital personal stake in his own legislative rights and powers. His right to participate in the decision on war is a crucial part of his efficacy as a legislator, of his ability to represent his constituents, of the degree to which he can protect and carry out the best interests and desires of his constituents, and of his ability to safeguard the lives and property of his constituents. As was true of the plaintiff granted standing in *Board of Education v. Allen*, 392 U.S. 236 (1968), illegal action has placed the plaintiffs in the position of being unable to fully and properly perform their constitutional duties. The Executive's action in fighting a long unauthorized war has made it impossible for the plaintiffs to fully exercise their constitutional right and duty as legislators to participate effectively in the decision on war.

Each plaintiff's personal stake as a legislator includes his interest in seeing to it that the integrity of his right to participate in the decision on war is not diluted, ignored, infringed or nullified by the Executive. As is true of anyone's right to vote, the Congressman's right to participate by vote in the decision on war is personal to him in his capacity as a legislator. No one else can assert a plaintiff-Congressman's right as well as he can. Each plaintiff is clearly adversary to the defendants, as is shown by the affidavits and this Brief. The plaintiffs are presenting the constitutional issues in a form capable of judicial resolution, as illustrated by the fact that federal courts in New York have passed upon the issue. *Orlando v. Laird*, Berk v. Laird, Nos. 35270 & 35535 (2d Cir., April 20, 1971). Only a precise and narrow constitutional issue is involved here: whether the Executive can fight a major and prolonged war without a Congressional declaration of limited or general war or a specific, intentional and discrete Congressional authorization of war. There can be no doubt of the existence of a true case or controversy, on a matter so critical to the plaintiffs and the nation and evoking daily debate in Congress and in the press.

Moreover, each plaintiff as a legislator has a vital interest in seeing to it that the basic constitutional doctrine of separation of powers is upheld in the crucial area of whether the nation shall fight a war. At a bare minimum, his interest in maintaining separation of powers against Executive encroachment is as great as the interest of the plaintiffs who had standing to uphold separation of powers in *Reservists Committee to Stop the War v. Laird*, No. 1429-70 (D.D.C., April 2, 1971). In that case, the injury being claimed to exist due to Congressmen holding offices in the military reserves was said by Judge Gesel to be hypothetical, although the hypothesis was one which underlay the constitutional clause

being invoked. In the present case, the injury is far more than hypothetical: every day the Executive is nullifying, ignoring and infringing the constitutional right and power of each legislator to participate in a decision by vote on war before the nation can lawfully fight or continue a war, and every day the Executive is nullifying and ignoring the fact that each day members of Congress refuse to declare or authorize war. Additionally, the Founders' hypothesis underlying the declaration-of-war clause—that disasters result from Executive wars and that consequently wars must be authorized by Congress—has been seen to be all too true in practice during the past decade.

6. In asserting his personal right to participate in a decision by vote on war before the nation can lawfully fight a war, each plaintiff herein is within a zone of interests protected by the Constitution, since it is Article I Section 8 Clause 11 which gives him the constitutional right he invokes. Moreover, as in the reapportionment and voting cases, it is irrelevant whether the substantive policy issue would be decided in accordance with the wishes of any given legislator if he were allowed his rightful participation in the process of decision by vote. It is irrelevant whether the issue of deciding to fight a war would be resolved in the way desired by any or all of the plaintiffs herein. As in the voting and reapportionment cases, the plaintiffs herein need not show that the policy issue would be decided their way, nor would it help the defendants if they could show (which they cannot) that the policy issue would be decided in favor of authorizing the war. The only important factor to standing is that under the Constitution the Executive cannot infringe upon the plaintiffs' legislative rights and powers by waging an unauthorized war.

7. The plaintiffs in this case are in the best position to assert the integrity of their rights under Article I Section 8 Clause 11 because they are expert participants in the legislative process and understand the realities of that process. Moreover, the fundamental matter of separation of powers, expressed in the present case through Article I Section 8 Clause 11, is directly placed in issue by parties such as the present plaintiffs. They are asserting their own legislative rights under Clause 11. Unlike previous servicemen or taxpayers or inductees challenging the constitutionality of the Vietnam war in prior cases, where the rights and powers of Congress under Article I Section 8 Clause 11 had to be placed in issue by parties who were not legislators, here the adversary process is exemplified by the direct assertion of those rights and powers by Congressmen themselves. If servicemen, who are not legislators, have standing to assert the rights and powers of Congress, as was ruled in *Berk v. Laird*, *supra*, then surely Congressmen themselves must be able to assert judicially their own rights and powers.

2. *Standing as Legislators Under Coleman v. Miller*: The right of a legislator to seek judicial redress for executive impairment of his legislative power to vote was explicitly upheld by the Supreme Court in *Coleman v. Miller*, 407 U.S. 433 (1939). In that case, the plaintiffs were members of the Kansas legislature who had voted against ratification of the child-labor amendment to the United States Constitution. They claimed that the efficacy of their votes had been impaired by the Lieutenant Governor of Kansas, who had illegally participated in the voting and had broken a tie vote in the Senate. The issue of the legislators' standing to sue was extensively argued and thoroughly briefed by the parties and by the *amicus curiae*. In a lengthy opinion analyzing the issue of standing, the Supreme Court held that there was standing to sue because the legislators had "a plain, direct, and adequate interest in maintaining the effectiveness of their votes." *Id.* at 438.

We know of no case contrary to *Coleman*,

either before that decision or subsequent to it. Many subsequent cases have cited *Coleman* with approval, e.g., *Baker v. Carr*, *supra* at 208. *Coleman* therefore is precedent for the federal legislators in the present case, since the plaintiffs have a plain, direct and adequate interest in maintaining, against Executive usurpation and preemption, the effectiveness of their right of participation in the decision by vote on whether the nation should fight a war.

Furthermore, like *Coleman*, the present case presents no issue of standing to attempt to force the Executive to carry out a policy affirmatively authorized by Congress in a statute or resolution. For example, no issue is raised that the President is not spending money authorized by Congress, or that the President is not sufficiently zealous in prosecuting firms for anti-trust violations, or that the President has delayed too long the appointment of members of an administrative agency, or even that the President is not prosecuting a war declared by Congress. Rather, the present case is an extremely narrower category, the category of *Youngstown Sheet & Tube v. Sawyer*, *supra*, or *Coleman v. Miller*, *supra*. This is the category of standing to attack affirmative Executive actions that have not been authorized by Congress and therefore usurp and preempt the constitutional power given to a legislature.

B. *Each Plaintiff Has Standing as a Citizen of the United States*: In addition to having standing in their special capacity as federal legislators, the plaintiffs have standing as citizens of the United States to raise a judicial challenge to the constitutionality of the war in Indo-China.

The present war in Indo-China has caused untold injury to citizens of the United States. Well over one hundred billion dollars of the citizens' money has been spent prosecuting the war. The war has caused the deaths of over fifty thousand citizens, and the wounding of over three hundred thousand more. Citizens who have not themselves fought in the war often have family members or relatives who have been killed or wounded in Indo-China. The war has contributed mightily to a vast inflation and other severe economic dislocations, which have injured every citizen. It has caused reductions in the funds available for medical and scientific research to cure disease, and for aid to the cities which are rapidly deteriorating, all to the detriment and injury of individual citizens. The war has exacerbated the racial crisis, with concomitant harm to individual citizens including the plaintiffs. It has caused riots in the streets and on the campuses, and a widespread disrespect for the laws and institutions of the nation.—In the words of Senator Sam Ervin, "The consequences of this failure to observe the Constitution are all too evident. True, no Supreme Court decision has adjudged the war in Vietnam as unconstitutional on the grounds that Congress adopted no formal declaration of war and because the Senate gave no effective advice and consent. Instead, the declaration of unconstitutionality has come from the judgment of the people. We see the decree everywhere. For the first time in our memory, an incumbent President was forced from office. Young men whose fathers and brothers volunteered to serve their country now desert to Canada and Scandinavia rather than bear arms for the country's cause. Thousands march on Washington and picket the White House, the Capitol, and the Pentagon . . .

"[A]nd I cannot shake the feeling that ultimately the reason many are now disrespectful and unresponsive to authority is because authority was disrespectful and unresponsive to the Constitution in the making of our policy in Vietnam." CONGRESSIONAL RECORD, vol. 115, pt. 13, p. 17217—all to the detriment of individual citizens and especially detrimental to the plaintiffs as citizens

having a particular interest in the sanctity of the legal system and the nation's institutions.

The Framers of the Constitution gave Congress the power to declare war because they desired to protect the citizens of the United States from the ravages of wars fought by decisions of the Executive. See pages 3-6, *supra*. As citizens, the plaintiffs therefore have the requisite stake in challenging the legality of a Presidential war which has caused the very injuries that the Framers foresaw as stemming from Executive wars.

The plaintiffs as citizens clearly come within the zone of interests protected by Article I Section 8 Clause 11. Moreover, there can be no doubt that as citizens the plaintiffs are in a position sharply adversary to the defendants. See *Flast v. Cohen, supra*. The plaintiffs are also presenting a precise and narrow legal issue (see *Reservists Committee to Stop the War v. Laird, supra*): the issue is whether the Executive can fight a major, prolonged war without at any time obtaining a Congressional declaration of limited or general war or a specific, intentional and discrete Congressional authorization of war. Finally, the plaintiffs are clearly presenting a true case or controversy. *Flast v. Cohen, supra*. Indeed, the judicial case or controversy which they are presenting is one of the most important to arise in the entire history of this nation and will have a crucial bearing on the future of the Republic.

C. Plaintiffs Have Standing as Legislator-Citizens: We have argued that the plaintiffs have standing to bring the present case as legislators, and that they also have standing as citizens. But they have standing in a third position as well: they have standing as a particular hybrid mix of legislator-citizens. Their right to decide on war as legislators is important to them personally not only because of the effect of that decision on them as legislators but also because of its effect on them as citizens. In this regard, the plaintiffs are in very much the same position as parties in past cases who asserted both the infringement of their right to vote and the injury that such infringement caused them as citizens, and who were permitted to successfully attack the infringements of which they complained. *Kramer v. Union Free School District, supra*; *Cipriano v. City of Houma, supra*; *Phoenix v. Kolodziejski, supra*.

IV. THE PRESENT CASE PRESENTS A JUSTICIABLE QUESTION, NOT A POLITICAL QUESTION

During the last year, judges have repeatedly recognized that the issue of the constitutionality of an undeclared war is a justiciable question, not a so-called political question. Such was the ruling of Judge Sweigert in *Mottola v. Nixon*, 318 F. Supp. 538 (1970), and of Judge Dooling in *Orlando v. Laird*, 317 F. Supp. 1013 (1970). Such was the opinion of Justice Douglas in a lengthy dissent from the Supreme Court's refusal to grant Massachusetts leave to file a complaint, *Massachusetts v. Laird*, 91 S.Ct. 128, 131-35 (1970). On motion for preliminary injunction, the Court of Appeals in *Berk v. Laird*, 429 F. 2d 302 (1970), ruled that the constitutionality of an undeclared war would be a justiciable question if there were judicially manageable standards for judging the war's legality. Such standards have been set forth in this Brief. As we have shown, the Constitution requires that a major, prolonged war such as the one in Indo-China must be either (1) formally declared by Congress in a declaration of limited or general war, or (2) authorized by Congress in an authorization, by statute or resolution, which is (a) explicit, (b) intentional, and (c) discrete. Finally, in a decision after full hearing in the companion appeals in *Berk v. Laird* and *Orlando v. Laird*, Docket Nos. 35270 & 35535, the Second Circuit Court of Appeals ruled that the constitutionality of the war is a justiciable question.

The judicial recognition that the constitutionality of the war is a justiciable question is impeccably correct when the matter is considered in light of the constitutional logic of our system, the history of judicial action in cases involving separation of powers, and the standards established in *Baker v. Carr, supra*, and *Powell v. McCormack*, 395 U.S. 486 (1969).

A Constitutional logic and history: The "political question doctrine," whatever its validity or justification in other cases, cannot be invoked to defeat a determination of the merits of the present dispute without causing a drastic and deleterious a teration of the equilibrium set up among the three branches of the federal government. At the heart of the present dispute is the issue of the distribution of power between Congress and the Executive. It is plaintiffs' contention that the war in Indo-China is unconstitutional because it has neither been declared nor specifically and intentionally authorized by Congress, and hence the Executive Branch has acted unconstitutionally in prosecuting the war. Although the "political question doctrine" has appeared in many and diverse cases, no Supreme Court case has been found where that doctrine has been held applicable to the issue of the distribution of power between Congress and the Executive. Quite the contrary, there have been numerous cases of historical significance involving the issue of the distribution of power between Congress and the President where the "political question doctrine" was not even seriously invoked as posing a potential objection to justiciability. See, e.g., *Youngstown Sheet and Tube Co. v. Sawyer*, 343 U.S. 579 (1952); *Korematsu v. United States*, 323 U.S. 214 (1944); *Duncan v. Kahanamoku*, 327 U.S. 304 (1946); *Hirabayashi v. United States*, 320 U.S. 81 (1943); *Kent v. Dulles*, 357 U.S. 116 (1958); *Fleld v. Clark*, 143 U.S.C. 649 (1892); *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304 (1936); *The Prize Cases*, 67 U.S. (2 Black) 635 (1863).

Included among the numerous cases involving the distribution of powers between Congress and the President where the political question doctrine was not invoked have been a number of cases involving the war powers. The legality of the seizure of prizes and the war power of Congress were adjudicated in *Bas v. Tingy*, 4 U.S. (4 Dall.) 37 (1800) and *Talbot v. Seeman*, 5 U.S. (1 Cranch) 1 (1801). The legality of the seizure of prizes under the international law of war when there had been no Congressional declaration of war was adjudicated in *The Prize Cases, supra*. The international law of prize in war was enforced against the Navy in *The Paquete Habana*, 175 U.S. 677 (1900).

The personal liability of a naval captain who seized a prize under the direct order of the President in time of war, but contrary to an act of Congress, was adjudicated in *Little v. Barreme*, 6 U.S. (2 Cranch) 169 (1804). Numerous other cases could be cited in which the Supreme Court heard and decided issues involving the war power. See, e.g., *Hirabayashi v. United States, supra*; *Korematsu v. United States, supra*; *United States v. Macintosh*, 283 U.S. 605 (1931); *The Pedro*, 175 U.S. 354 (1899); *Tyler v. Defrees*, 78 U.S. (11 Wall.) 331 (1870); *Fleming v. Page*, 50 U.S. (9 How.) 603 (1850); *Commercial Trust Co. v. Miller*, 262 U.S. 51 (1923); *Martin v. Mott*, 25 U.S. (12 Wheat.) 19 (1827); *Hamilton v. Kentucky Distilleries & W. Co.*, 251 U.S. 146 (1919); *Fleming v. Mohawk Wrecking Co.*, 331 U.S. 111 (1947); *Dakota Central Tel. Co. v. South Dakota*, 250 U.S. 163 (1919); *Woods v. Miller Co.*, 333 U.S. 138 (1948).

The reason for the absence of the "political question doctrine" from cases where the issue is the distribution of power between Congress and the Executive is clear and compelling. Whatever else the term "political question" may connote, its core meaning is

that the Constitution has committed the resolution of a particular issue to a political department rather than to the judiciary. See *Powell v. McCormack, supra*, at 518-521, 548-549. But when the very question is which branch of government, the Executive or the legislative, has the constitutional authority to resolve a particular issue, then there is obviously no constitutional commitment of the power of final decision to either of the political branches. Rather, there is a traditional issue for the judiciary—the determination of which branches have what powers. Indeed, in a case involving the distribution of power between Congress and the Executive, the federal Court has a duty to be the umpire or referee so as to make sure that the constitutional equilibrium of power in the federal government is not destroyed. If the third branch of government were to abstain from the role of umpire, there would be a flat denial of the possibility of the rule of law in the government of the United States. Judicial abstention in such a case would mean that the question of the distribution of power between the legislature and the Executive would not be decided on legal grounds but would be resolved by the naked force of power that either branch could muster. Appeals would be made to popular emotions; access to mass communications media would become of paramount importance; and even the spectre of a police state could be raised by the realization that one man is Commander-in-Chief of the world's most powerful armed forces. Perhaps a basic structural, though unnoticed, reason why such a fight for power has never occurred in the history of the United States is that the Supreme Court has never disqualified itself from the position of authoritative arbiter in respect of issues of the distribution of power between Congress and the President. If it became known as a result of cases like the present one that the judiciary were disqualified, and that there was thus no legal standard by which the judiciary could resolve a legislative-executive issue, then there might be a rapid disintegration of the equilibrium between the two branches that constitutes the heart of the American system of checks and balances.

We thus contend that there is not and cannot be a barrier to the present suit on the basis of the so-called political question doctrine. On the contrary, rather than suit being barred by the so-called political question doctrine, the continuing future of American constitutional democracy requires judicial recognition of the fact that the paramount constitutional question of the war's legality is a justiciable issue, and a concomitant ruling that presidential wars are illegal. For such recognition and such a ruling are necessary to a restoration of the badly eroded concept of separation of powers in the critically important area of a national decision to go to war.

Historically, the doctrine of separation of powers was one of the bedrock foundations upon which American constitutionalism was based. But in the last thirty years, under the pressures of the cold war and fears of Communist aggression, it became fashionable to downgrade separation of powers. It became fashionable to believe that vast powers should be given to the President even though this might enable him to encroach upon, and indeed usurp, the power of Congress. To so low an estate did the concept of separation of powers fall, that one famous constitutional lawyer referred to it as being on a "sickbed", with a "disease" that "would appear to be terminal." *Kurland, The Importance of Reticence*, 1968 *Duke L.J.* 619, 621.

As a result of the American experience in Indo-China, however, the situation has begun to change dramatically. Seeing what could happen when one man—the President—had the power to make the decision that this country should go to war and

should invade other nations, the American public began to realize once again that the framers wisely sought to guard against over-concentrated power by providing for three separate governmental branches, each with its own decision-making responsibilities. Today Senators, Representatives, authors and others are pointing out that, for this country to have a healthy future as a constitutional democracy, separation of powers must be restored. This is not just a matter of the war in Viet Nam, which the President claims he is winding down. It is not just a matter of the invasions of Cambodia and Laos. It is also a matter of potential future presidential wars in underdeveloped nations, and of whether the American government shall operate under a general constitutional philosophy of Presidential hegemony or under a constitutional philosophy of three co-equal branches which have a truly effective power to check and balance each other.

In order to aid in the necessary restoration of separation of powers, the courts must perform their historic duty of deciding where power lies under the United States Constitution, of curbing unlawful Presidential usurpations of power, and of protecting constitutional procedures. This obviously cannot be done if judges were to rule that a constitutional question such as the legality of a presidential war is a so-called political question: such rulings, which occurred early in the war, aided in the cold war breakdown of separation of powers by immunizing unlawful presidential actions from judicial scrutiny, and they abetted what Senator Fulbright has described as a 30 year trend toward "Presidential dictatorship in foreign affairs." In order to aid in the restoration of separation of powers, judges have a responsibility to rule, as they recently have, that whether a major war is constitutional is a justiciable question.

But it is not enough merely to rule that the constitutionality of the war is a justiciable question. Courts must also safeguard the Constitution by ruling on the merits that constitutionally prescribed procedures need be adhered to. As we have shown above, the Constitution was framed so as to insure that certain procedures would occur in Congress before the nation undertook to fight a war. But in the current war, the President has at all times circumvented the constitutionally required procedures in Congress. He has arrogated unto himself Congress' power to decide on war, has presented Congress with a *fait accompli* war, and has thereby forced Congressmen into a position where they felt they had no choice but to provide appropriations and troop support for men who faced death in battle. If the President can do this without his actions being ruled illegal on the merits as being in violation of the declaration of war clause, then the courts will not be performing their historic duty of safeguarding the Constitution and separation of powers will be just as dead in the war area as if the courts were to call the issue of the war's legality a political question.

B. *The standards of Baker v. Carr and Powell v. McCormack*: Under the tests of "political questions" laid down in *Baker v. Carr*, supra, and *Powell v. McCormack*, supra, the constitutionality of the current war is a justiciable question rather than a "political question." In asking the court to rule that the President cannot constitutionally prosecute a war which has not been declared or specifically and intentionally authorized by Congress, plaintiffs are asking for an interpretation of the Constitution. "Such a determination falls within the traditional role accorded courts to interpret the law, and does not involve a 'lack of the respect due [a] coordinate branch of government,' nor does it involve an 'initial policy determination of a kind clearly for nonjudicial discretion.'" *Powell v. McCormack*, supra at 548-549. Moreover, a constitutional determination by its very nature involves "judicially manageable

standards." *Ibid.* The standards, indeed, derive from Article I, Section 8, Clause 11 of the Constitution, and have been spelled out in this brief, which has pointed out that a war must be either formally declared by Congress or specifically, intentionally and discretely authorized by Congress. Additionally, a judicial resolution of Massachusetts' claim will not result in "multifarious pronouncements by various departments on one question," *Baker v. Carr*, supra at 217, for it is the responsibility of the Supreme Court to act as the ultimate interpreter of the Constitution. *Powell v. McCormack*, supra at 549.

Finally, the test mentioned in *Baker v. Carr*, supra at 217, of "an unusual need for unquestioning adherence to a political decision already made," has never been a factor in any case involving the constitutionality of the war power or of the distribution of power between the legislative and executive branches. But even if the defendant in the present case were to claim that a decision by the Supreme Court that the war in Southeast Asia is unconstitutional would have serious domestic or international consequences, such a suggestion ultimately rests upon an assumption which is impermissible under a Constitution that gives the lawmaking and war-declaring powers to Congress: it rests upon the assumption that Congress cannot be trusted to decide what future steps the United States should take in Southeast Asia and to consider the domestic and international consequences of various steps. If this Federal Court were to rule that the war is unconstitutional, it would then be up to Congress to decide whether and to what extent continued hostilities should be specifically and intentionally authorized in Southeast Asia. Congress might decide to authorize the continuation of the war for an unlimited amount of time. Or, it might authorize the continuation of hostilities for a length of time sufficient to ensure that American forces are withdrawn in an orderly manner, in full consultation with the Commander-in-Chief as to the domestic and international consequences of the necessary rate and manner of withdrawal. Whatever Congress may decide, it can be trusted to act responsibly in light of all domestic and international political consequences, since it is the body authorized by the Constitution to make these decisions in the first place.

C. *The Decision in United States v. Sisson: Appropriations And Extension of Selected Service*: Though constitutional logic, history and the standards governing the doctrine of "political questions" all lead to the conclusion that the constitutionality of the war is a justiciable question, there has been a school of thought, whose most effective expression was in *United States v. Sisson*, 294 F. Supp. 511, 513-515 (1968), which holds that appropriations and extensions of selective service are permissible vehicles for authorizing war; that Congress can therefore choose to authorize war in this way rather than in some other way such as declaring war; and that it is therefore a political question as to how war is authorized. However, we strongly urge that the Court's opinion in *Sisson* is in error, and that this Court should not follow *Sisson*, as it has not been allowed in recent cases in federal courts in New York and California. As shown at length earlier in this brief, as a question of law it is constitutionally wrong to rule that appropriations and selective service renewals can authorize war, and as a question of fact Congress was in no position to do anything other than enact defense appropriations and renew selective service. We thus believe that the constitutionality or legislatively permissible effects of appropriations and selective service renewals are questions of constitutional interpretation and statutory exegesis. Such questions are not political questions. They are traditionally justiciable questions for the courts.

Indeed it is noteworthy that in *Sisson* the

Court was explicitly cognizant of the fact that, as shown above, there are important procedural and substantive differences between a formal declaration of war and an appropriations act or renewal of selective service, *U.S. v. Sisson*, 294 F. Supp. 511 at 514. The Court in *Sisson* said "What something is called has much to do with how authorities act and also with how those subject to authority respond." 294 F. Supp. at 514. It went on to point out that judges require stronger evidence and far greater certainty before imposing a fine in a civil case than when they merely enter a judgment for damages, and said "The procedural and substantive standards differ. There is a roughly similar distinction between a declaration of war and a Congressional appropriation to support military action overseas directed by the President." *Ibid.* The Court asserted that "a declaration of war is a far more important act than an appropriation act or an extension of Selective Service" *Ibid.*

Yet, despite its recognition of the critical differences between a declaration of war and an appropriations act or extension of selective service, the Court felt compelled to rule in *Sisson* that appropriations acts and selective service renewals can authorize hostilities and that the form which an authorization of war takes is therefore a political question. The reason the court felt compelled to rule this way was made plain in the *Sisson* opinion: The Court felt that "What may be involved in this case is a choice between a limited undeclared war approved by the President and Congress and an unlimited declaration of war through an Act of Congress." *United States v. Sisson*, 294 F. Supp. at 515. But a formal declaration of war, opined the Court, could launch the nation upon a sea of international troubles. *Ibid.*

But as we have shown above, the choice involved in cases challenging the constitutionality of the war is not between fighting a limited undeclared war approved by Congress in appropriations and Selective Service or fighting an unlimited formally declared war. These alternatives are too restricted and are inherently false ones. In the first place, for reasons given above in this brief, appropriations and selective service renewals cannot constitutionally be, and in fact have not been intended as, Congressional approval and authorization for war. Thus it is a false alternative to posit that Congress can or has authorized a war by appropriations. Secondly, though appropriations are an impermissible method of authorizing war, Congress does have a constitutionally permissible alternative to a formal declaration of war. It has the alternative of authorizing war by an explicit, intentional and discrete authorization of war—an authorization which is not a formal declaration of war, but which maintains the integrity of Congress' decisionmaking powers.

Third, regardless of whether Congress were to formally declare war or were to issue an explicit, intentional and discrete authorization of war, Congress is not restricted to authorizing an all out, unlimited war. Rather, it can authorize only a limited war. The framers clearly intended for Congress to have this power, as evidenced by the fact that early Congresses, sitting while the framers were active, authorized limited hostilities against France and Tripoli, and by the fact that Supreme Court decisions of the same period specifically pointed out that Congress can authorize limited hostilities. *Talbot v. Seaman*, 5 U.S. (1 Cranch) 1, 28 (1801); *Bas v. Tingy*, 4 U.S. (4 Dall.) 35 (1800). Indeed, were Congress not to have the power of authorizing limited war, then in today's world the declaration of war clause would be rendered useless except in the case of an all-out nuclear war—when there would probably be no time for Congress to authorize war anyway.

The Court's decision in *Sisson* rendered the declaration of war clause useless in precisely this way. For the *Sisson* opinion

posited that the only two alternatives were a formally declared unlimited war or a limited undeclared war approved by appropriations and draft renewals, and this excludes the alternative of an explicitly authorized limited war. Thus, if the only two alternatives are an unlimited formally declared war or a limited war approved by the draft and appropriations, we may find that, as in Indo China, the President can get the country into all kinds of engagements acting on his own authority, without initial reference to the power given by the Constitution to Congress. As these engagements expand in scope and escalate in casualties, we might, as in Indo China, drift into major wars without Congress ever having made an explicit decision that we should fight.

A fourth reason why the alternatives given in *Sisson* were too limited and were false is that, as discussed in the next section, an explicit, intentional and discrete authorization of war would not create the international complications mentioned in *Sisson*. Indeed it is highly probable that such consequences would not be brought on even by a declaration of war, particularly a declaration of limited war only.

In view of the above, it can be seen that there is no need to say that whether appropriations and selective service serve to authorize war is a political question because a limited war approved by appropriations and selective service is the alternative to a formally declared unlimited war. The alternatives to a formally declared unlimited war are an explicit, intentional and discrete authorization of war containing limitations on the war, or a declaration of only limited war. Unlike appropriations and selective service, an alternative such as an explicit, intentional and discrete authorization of war containing limitations of the war maintains the integrity of Congress' decisionmaking power over war.

D. The Decision In *United States v Sisson: The International Effects of An Authorization of War:* Having postulated, in our opinion erroneously, that the only two alternatives in Indo China were an unlimited declared war or a limited war approved by appropriations and draft renewals, the Court in *Sisson* went on to point out its fear that a declaration of war could have untoward international consequences. The Court said:

"Moreover, in the Vietnam situation a declaration of war would produce consequences which no court can fully anticipate. A declaration of war affects treaties of the United States, obligations of the United States under international organizations, and many public and private arrangements. A determination not to declare war is more than an avoidance of a domestic constitutional procedure. It has international implications of vast dimensions."

The Court's fears of the possible consequences of a declaration of war in Viet Nam rested, of course, on the unstated basic premise that, if appropriations or selective service renewals are not authorization for war, the Congress would declare war in Indo-China. But this is an assumption which cannot be made. Congress might very well decide that it does not want to declare war and thereby prolong the agony which this country and the people of Indo-China have so long undergone. It might also decide that it does not even wish to enact an explicit, intentional and discrete authorization for the President to continue the war for a long period, since such an authorization, like a declaration of war, would prolong the agony of the nations involved. Indeed, we believe that a Congressional refusal to declare or authorize a lengthy war is the vastly more probable result in 1971, and in all likelihood was the far more probable result when the *Sisson* opinion was written—the fall of 1968, a season when vast peace movements had existed in the country for a year or more.

But entirely aside from the *Sisson* opinion's unstated assumption that Congress would declare war, the Court's fear that a declaration of war could have serious international consequences is not in accord with modern international law and practice. Under general international law and practice, the presence or absence of a formal declaration of war does not affect obligations under treaties, conventions, international agreements or the rules of war. The presence of a formal declaration of war will not render acts legal or necessary if they are otherwise illegal or unnecessary, nor will the absence of a declaration of war render acts illegal or unnecessary if they are otherwise legal or necessary. In general, formal declarations of war are simply inoperative under international law and practice, as is well known to all countries including the United States. Indeed, in a State Department position paper dated November 19, 1965, the Executive Branch acknowledged, in the middle of the Viet Nam war, that "the legal rules of international law concerning the conduct of armed conflicts apply to all armed conflicts without regard to the presence or absence of declarations of war."

(In 1949, a leading international law commentator said "the rules of law on war . . . all apply irrespective of a declaration of war." Grob, *The Relativity of War and Peace* 288 (1949).)

The reason is clear why international law and practice make formal declarations of war largely irrelevant to international obligations. Nations are not about to have major international obligations, with concomitant critical consequences, depend upon mere verbal characterizations of a state of affairs. Nations are infinitely more concerned with what the actual state of affairs is than with its verbal characterization. Thus, with regard to international obligations arising due to war, the invoking and carrying out of such obligations under treaties, conventions and international agreements, is not dependent upon the existence of an actual shooting war. This is emphasized by the fact that, though it is said no nation has declared war on any other nation since 1945, during this period there have been innumerable wars, many of which involved nations giving combat support and materiel support to their allies despite the absence of declarations of war.

That nations are concerned with the existence of an actual shooting war, and not with its verbal characterization as declared or an undeclared war, has been true throughout the twentieth century.¹ Indeed, so strong is the idea that formal declarations of war are internationally meaningless, that since 1920 draftsmen of treaties have usually not even used the word "war" as a term of art. They have instead referred variously to "aggression", "acts of hostility," "unprovoked aggression," "the use of force" "armed attack," and "armed aggression." Brownlie, *International Law and the Use of Force by States* 393 (1963).

Given the general meaninglessness of even formal declarations of war under international law and practice, it is clear that mere explicit, intentional and discrete authorization of war would be even less likely than a declaration of war to have international consequences or to affect international duties under treaties, conventions or international agreements. A domestic Congressional authorization of war, while critically important to our Constitution, has no significant international effect. Moreover, as is the case with formal declarations of war, nations are concerned not with verbal characterizations such as authorizations of war, but with the actual state of affairs. Internationally speaking, nations care not whether Congress has enacted an explicit, intentional and discrete authorization of hostilities. What they care

about is whether the United States is engaged in an actual war and is posing an actual threat to them.²

There are many concrete illustrations of the fact that international rights and obligations have long been dependent upon actual states of affairs rather than upon verbalizations. We shall set forth two typical examples. First, early in the nineteenth century, international law relating to military force got rid of the vestiges of rules dependent upon unilateral characterizations of war or states of belligerence, and by the middle of that century, unilateral declarations of blockade—so called "paper blockades"—had even been specifically made void by treaty. (Declaration of Paris, 1856). In order for the rules of blockade to apply, there had to be an actual blockade, not a mere paper one, since no neutral nation was going to permit its commerce to be impaired by a mere paper declaration of blockade or war.

Another example is contained in the General Treaty for the Renunciation of War (the Kellogg-Brand pact) and the Charter of the United Nations, which specifically render declarations of war largely or completely irrelevant to the rights and obligations of states. The General Treaty and the Charter say that "the resort to war, if undertaken in violation of the obligations laid down in these instruments, is unlawful, even though it is preceded by a reasoned declaration of war." Kelsen, *Principles of International Law*, 92 (Tucker ed. 1966). On the other side of the coin, under these treaties and international law in general, a war undertaken in self defense after an unlawful attack is legal regardless of whether the nation acting in self defense issues a declaration of war. The short of the matter is that under these Treaties, the legality of a nation's conduct in carrying out war is unaffected by the presence or absence of a declaration of war.

In summary of this section, there have been judicial holdings which have ruled that the constitutionality of the war is a political question, and a predicate for these rulings has been speculation that a proper Congressional authorization of hostilities in Indo-China could affect international obligations. But such speculation is not well founded because, for purposes of international relationships, the critical factor is whether a war is actually occurring, not whether the belligerents have verbally characterized it in a declaration or authorization of hostilities. Thus, the aforementioned speculation is not a sufficient basis for calling the legality of the war a political question and for thereby failing to uphold the declaration of war clause and separation of powers.

E. Plaintiffs' Claim And The Relief Sought Admit of Judicial Resolution: In addition to presenting a constitutional question rather than a so-called "political question," plaintiffs' claim possesses other general attributes of justiciability because there is a duty which "can be judicially identified and its breach judicially determined, and . . . protection for the right asserted can be judicially molded." *Powell v. McCormack*, supra at 517. The defendants have a duty to obtain a Congressional declaration of war, or a specific, intentional and discrete Congressional authorization of war, before sending me to fight in a war in Southeast Asia. That duty has been breached. Judicial relief can be molded. In accordance with the prayer of plaintiffs' complaint, this court could declare that the defendants' actions are in violation of the Constitution,³ or it could enjoin defendants from continuing their violation of the Constitution, or both. Injunctive relief would present no serious problems.

In accordance with the prayer of plaintiff's complaint, defendants would have sixty days, or such other period as the court deems necessary, to seek to obtain a declaration or authorization of war from Congress. This

Footnotes at end of article.

would give Congress sufficient time to decide whether and on what terms the war should either be continued or terminated. In making this decision, Congress would certainly take account of my relevant international and domestic considerations. If, at the end of the sixty day period, Congress has decided not to act, or if it refuses to authorize a continuation of the war, defendants will stand enjoined from further prosecution of hostilities. The injunction can be flexibly molded, with consideration given to suggestions made by the parties. The defendants would have to disengage from the military hostilities within a relatively short period of time, but the manner in which the disengagement is accomplished would be up to them. Because the method of disengagement would be up to defendants, this Court would in no way have to get involved in supervising the details of the disengagement. Still less would there be a need for recourse to such incredible suggestions, which have occasionally been put forth by defendants, as that this Court might have to "set up its own office of military affairs" or "supervise the . . . process of military disengagement" or "provide officials to carry on diplomatic discussions with the North Vietnamese and other governments." Brief for defendant, *Massachusetts v. Laird*, supra, at pp 32-33.

F. Conclusion of the Political Question Issue: Plaintiffs have shown that recent precedents, constitutional logic, the need for continued vitality of our system, history, the standards in relevant cases, and general considerations of justiciability, all lead to the conclusion that the constitutionality of the war is a justiciable question. Plaintiffs have further shown that there is no good reason for any ruling that the legality of the war is not a justiciable issue. It is thus particularly incumbent upon the judiciary to decide the legality of the war and uphold constitutional procedures.

In the earlier stages of this war, it seemed that very few people cared much about constitutional procedures—about whether the war was being fought in accordance with such procedures. All manner of reasons were given by the Executive, by courts, and by others, for permitting a war to be fought despite the fact that constitutional procedures were being violated.

But now there has been a new realization that constitutional procedures are not lightly to be cast aside if we wish to maintain our framework of government. Today vast numbers of citizens call for curbing the Executive branch of government, an Executive which has fought the war in direct violation of the declaration-of-war clause. Citizens, soldiers, Congressmen, and states of the Union are seeking judicial rulings enforcing the Constitution.

It is the courts' responsibility—their bound duty—to uphold constitutional procedures. As Justice Harlan so well said in a recent case involving due process:

"Perhaps no characteristic of an organized and cohesive society is more fundamental than its erection and enforcement of a system of rules defining the various rights and duties of its members, enabling them to govern their affairs and definitely settle their differences in an orderly, predictable manner. Without such a 'legal system,' social organization and cohesion are virtually impossible; with the ability to seek regularized resolution of conflicts individuals are capable of independent action that enables them to strive for achievements without the anxieties that would beset them in a disorganized society. Put more succinctly, it is this injection of the rule of law that allows a society to reap the benefits of rejecting what political theorists call the 'state of nature.'

"American society, of course, bottoms its systematic definition of individual rights and duties, as well as its machinery for dispute

settlement, not on custom or the will of strategically placed individuals, but on the common-law model. It is to courts, or other quasi-judicial official bodies, that we ultimately look for the implementation of a regularized, orderly process of dispute settlement." (*Boddie v. Connecticut*, 1970-71 S.Ct. Bull., B-1246, B-1248-49).

The courts must perform their constitutional duty of resolving the critical constitutional issue presented in this case. The courts are the branch of government to which citizens properly turn for an interpretation and upholding of the Constitution. If the courts dodge the paramount constitutional issue involved here, public confidence in the integrity of the judicial system must necessarily suffer a debilitating erosion.

V. POTENTIAL INITIATIVE IN CONGRESS HAVE NO BEARING ON THIS CASE

Recently there have been potential initiatives in Congress with respect to the declaration-of-war clause, such as projected statutes prohibiting the President from engaging in any future wars without Congressional authorization, or projected resolution indicating that no war shall be fought in the future (other than emergency action) without a Congressional declaration or authorization of war. Although these Congressional initiatives certainly attest to a strong conviction among Congressmen that the present war in Indo-China is unconstitutional, the initiatives in no way lessen the need for a decision on the merits of this case and in no way affect the standing of the plaintiffs or lessen the justiciability of the issue.

No statute or resolution can diminish the constitutional powers of the President or Congress in the war area; the President and Congress are bound only by the Constitution. Even though his opinion on constitutionality might be wrong, a President in the future could ignore any Congressional statute or resolution which in his view worked an unconstitutional expansion of Congress' power under the declaration of war clause or an unconstitutional diminution of his own power. Unless the court grants the relief the plaintiffs seek in the present case, the Executive indeed may be encouraged in the future to ignore any Congressional initiatives that in his view would constrict his power to get the nation involved in more Vietnams. When President and Congress alone contest each other's prerogatives with respect to war, the Executive will necessarily emerge the winner since he commands the armies whereas Congress merely can pass a resolution or a statute which the Executive can ignore on the ground that it is an unconstitutional enlargement of Congress' constitutional rights.

In another respect as well the present initiatives in Congress cannot aspire to be the equivalent of a judicial determination that the declaration-of-war clause vests in Congress alone the power to decide on war. For the President can veto any Congressional statute or resolution, making it necessary for Congress to come up with a two-thirds majority in each house to override the veto, and thus impairing Congress' simple majority vote under the declaration-of-war clause. Moreover, the very threat of such a veto, a threat which has been heard quite often in recent days, exerts a modifying influence on such Congressional initiatives or makes their passage unlikely. For this reason as well, Congress has no legislative remedy equivalent to its power under the declaration-of-war clause.

Furthermore, the projected initiatives in Congress can have no bearing on standing, since each plaintiff herein is asserting a right which is given to him by the Constitution and which is not dependent upon any possible statute that might or might not be enacted. Nor is there any bearing on justiciability, since the plaintiffs seek an interpretation of the Constitution itself.

VI. A FULL, PROMPT HEARING AND AN INJUNCTION ARE APPROPRIATE IN THE PRESENT PROCEEDINGS

As we have shown, the plaintiffs have standing to raise the issues presented by this case, those issues are justiciable, and the correct resolution of those issues compels the conclusion that the war in Indo-China is unconstitutional and that the plaintiffs' right to participate in the decision by vote on war has been diluted, ignored, infringed and nullified. In these circumstances, the only remaining questions, as to the necessity for a prompt, full hearing and the propriety of injunctive relief, do not require extended discussion.

By the express language of Rule 65, Federal Rules of Civil Procedure, the court has the authority to order the advancement of the trial on the merits and consolidation with the hearing on the application for preliminary injunction. The affirmative exercise of the court's discretion to issue such an order is manifestly appropriate here. The goals to be attained by a prompt, final disposition are clear: if the Executive's military action in Indo-China is unconstitutional, as plaintiffs contend, then because of the war's dire consequences to American lives, property and monies, the Executive's actions should either be authorized by Congress or should cease. If the war is not unconstitutional, then the plaintiffs and the entire nation are entitled to know this.

The irreparable and uncompensable injuries being suffered by the plaintiffs and by the entire nation due to the war, measured in lives, bodies and dollars, and measured as well by the specific injuries to plaintiffs in the nullification of their constitutional rights as legislators and by the nullification of their abilities to protect the best interests, lives and property of their constituents, are far more than adequate to justify a prompt and full hearing. Delay and repetition of evidence which would result from having both a preliminary hearing and a later trial on the merits, can and should be avoided by having a consolidated hearing. The defendants and their counsel will not be inconvenienced or handicapped by a prompt trial of this case. Defendants and their counsel have litigated many of the issues presented here throughout the country and are well aware of the facts and legal issues. There simply is no reason for delay.

As we have shown above, the court can frame a suitable injunction. An order in accordance with the prayer for relief in the Complaint would give defendants sixty days from the date of the order to seek a Congressional authorization of war, and the prosecution of hostilities would not be disturbed during this period. If the defendants cannot obtain Congressional authorization for continuation of the war within the easily sufficient period of sixty days, then the prosecution of the war should cease if the Constitution is to be respected.

The proceedings of the District Court in *Youngstown Sheet & Tube Co. v. Sawyer*, 103 F. Supp. 569 (D.D.C.), aff'd, 343 U.S. 579 (1952), which like the present case involved a constitutional issue that was momentous for the nation, provide a clear precedent for the relief requested here. In *Youngstown*, the court enjoined the Executive branch from seizing the steel mills, which the Executive had done on the plea that this was necessary for national defense. The matter came before the court on plaintiffs' motion for a preliminary injunction, the defendant having opposed expedition of a hearing on the merits. The defendant argued that an injunction should not issue, lest there be allegedly disastrous effects upon the national defense. In rejecting this argument of the defendant, this court said that even if one assumed the effects claimed by the defendant, there were available alternatives to eliminate such

problems including seeking legislation from Congress. In the present case, too, defendants would have a legislative remedy, since, as said before, they would have sixty days to seek Congressional authorization for continuation of the war.

The words of Judge Pine in *Youngstown*, pointing out that the Constitution must be respected and followed despite defendants' dire claims and predictions, are relevant and striking here:

"I believe that our procedures under the Constitution can stand the stress and strains of an emergency today as they have in the past, and are adequate to meet the test of emergency and crisis.

"Under these circumstances, I am of the opinion that, weighing the injuries and taking these last-mentioned considerations into account, the balance is on the side of plaintiffs. Furthermore, if I consider the public interest from another viewpoint, I believe that the contemplated strike, if it came, with all its awful results, would be less injurious to the public than the injury which would flow from a timorous judicial recognition that there is some basis for this claim to unlimited and unrestrained Executive power, which would be implicit in a failure to grant the injunction. Such recognition would undermine public confidence in the very edifice of government as it is known under the Constitution." (103 F. Supp. at 577).

Here plaintiffs seek an injunction the effect of which would be only that the Constitutional procedures be followed.

VII. CONCLUSION

Based upon the foregoing, we pray that the court grant the plaintiffs' instant motion.

Respectfully submitted,

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FOOTNOTES

¹In an exhaustive examination of the area, Grob found only one set of rules of warfare which had a provision that might be said to be triggered or affected by a verbal declaration of war. The Italian rules of land warfare of November 22, 1882, contain a provision, Article 126, which says "The state of war begins with a declaration of war. A state invaded without a declaration of war therefore, is entitled to treat the enemy soldiers as individuals who commit an aggression by force of arms." Grob, *The Relativity of War and Peace* 284 (1949).

²Recent American history contains examples of nations caring about the actual state of affairs rather than about verbal characterizations or verbal authorizations. Though North Korea did not formally declare war on South Korea, the U.S. entered the Korean War. Though the Congress did not declare war on, or explicitly, intentionally and discretely authorize war against, North Korea or China, the Communist Chinese entered the Korean war when they felt their security to be threatened. Neither North Viet Nam nor the Viet Cong have declared war on South Viet Nam, nor has the Congress declared or authorized war on North Viet Nam or the National Liberation Front. Yet the battle has raged for years in Indo China. And we would venture to say that, were the Russians to invade western Europe, or were the U.S. to invade Eastern Europe, nations would not much care whether the invading party had formally declared war or whether

its proper internal political body had properly authorized war. The actual state of affairs, the actual invasion, would be the only thing that counts.

This result holds true domestically as well. Courts did not hesitate to hold that the undeclared Korean war and Viet Nam war were "wars" for domestic legal purposes. See cases cited in Velvel, *Undeclared War and Civil Disobedience*, Chapter 8, footnote 6 on page 376 (1970).

³The Declaratory Judgment Act, 28 U.S.C. Section 2201 (1964 ed.) provides that "any court of the United States . . . may declare the rights . . . of any interested party . . . whether or not further relief is or could be sought."

APPENDIX

Senator Russell said:

"If Senators wish to punish the President by starving 300,000 American boys and leaving them in Vietnam, they should not only vote for the resolution of the Senator from Oregon but should also vote against the authorization [of money]. Senators have this power. But, I have an idea, if they do, that they will hear something from the American people. Every State in the Union has men in Vietnam. The people back in the 'boondocks' and in our towns, and those living in the folds of the creeks, have a high value of life. It is a matter of grief when one of those coffins, with the American flag draped over it, comes back home to a small town. It is not a matter of higgling and haggling about policy or Presidential power. It is a matter which strikes right into the homes of a whole community." 112 *Cong. Rec.* 4372.

Senator Ervin said:

"What you point out is one of the troublesome things about it. If a President takes action and puts our troops into battle overseas in an offensive war, and our boys are being shot at and killed, Congress is put in a position where it must furnish them with weapons to defend themselves on foreign soil." *National Commitments Hearings*, 220.

Excerpts from the debates surrounding the 1965 Southeast Asian Emergency Appropriations follows:

Mr. KASTENMEIER. Mr. Chairman, in abruptly calling for \$700 million, the President appears to be asking for an endorsement by Congress for the administration policies in Vietnam and the Dominican Republic. Since he has asked for these funds and assuming he has need for them—although there is serious doubt about the urgency for \$700 million to be spent in the remaining 2 months of this fiscal year. I am sure Congress will support this measure, in some cases because of agreement with its implicit policy—in others because of an unwillingness to be placed on record as denying funds for elements of the Armed Forces abroad including 'equipment, aircraft, and ammunition'.

"In this situation, however, it must be clear that this vote cannot be construed as an unqualified endorsement of our policies in either southeast Asia or in this hemisphere. A vote for these funds does not exonerate the grave reservations many in this country have over these policies. The President's request for funds, coming at a time when he could use other existing appropriations, must be seen for what it is—the engineering of consent. While he will receive the votes of consent, the debate over our policies will not end today. While the President has a duty in foreign policy, Congress has an equal responsibility to give national expression to the strong opposition to our policies throughout the country. Congress ought not to acquiesce and rubber-stamp policies which are, in some cases, radically different from those recently pursued.

"Recent polls on the President's popularity and the approval of his policies in Vietnam show there is strong opposition to current policies.

"For example, in a poll just completed in my district, 3,764 people answered the question on the war in Vietnam. Of these 2,345, or 62 percent of those responding favored an end to the war by either U.N. supervision of a neutralized Vietnam or complete American withdrawal, 1,021 or 27 percent favored the President's current program of increased use of U.S. military force, 296 or 8 percent favored continuing the Kennedy program of limiting our aid to assistance to the South Vietnamese Army, and 102 or 3 percent favored more drastic measures than those now being pursued.

"Accordingly, it could be argued that a vote reflecting the view of my district would be in opposition to increased funds for the military, particularly in the light of our military occupation of the Dominican Republic.

"In fact, Mr. Chairman, the record will show that I have long been critical of heavy reliance on military force in Vietnam and elsewhere whether such policies are advocated by Mr. Goldwater, as they were last year, or by someone else and in this respect I find it increasingly difficult to answer critics who argue that this administration is now pursuing Mr. Goldwater's policies implicitly rejected by the voters last November.

"Our present policies have left our relations with other countries in shambles. The NATO alliance has never been in a greater state of disarray. While we may be receiving token lipservice support for our policies in Vietnam, we have little or no direct assistance in this effort as we had in Korea. The abrogation of the Kennedy policy of limiting our support to the South Vietnamese Army has changed the entire character of the war. We are now carrying a large part of the actual fighting of this war. The war is no longer limited geographically to South Vietnam and may be extended further at any time.

"In this hemisphere, our actions in the Dominican Republic have cost us friends, as the votes in the Organization of American States reflect.

"In this context, Mr. Chairman, I must in good conscience make it clear to the President and the country, that while I feel constrained to support the instant request for funds, my vote does not carry an unqualified endorsement of the underlying policies. The search for an alternative to the present policy must go on. Congress must continue to speak out against policies where they are weak and to offer alternatives." 111 *Cong. Rec.* 9527.

Mr. Lindsay said:

"Mr. Chairman, I intend to vote for this resolution because the President has requested us to present a united front to the world on our involvement in Vietnam. An overwhelmingly favorable vote is requested also, and is important as an expression of our support to the American servicemen who are engaged in the Vietnam conflict.

"My vote, however, is not to be construed as an approval of the administration's whole policy in Vietnam; nor does it imply the endorsement of a blank check for the unexamined spending of more and more millions, the unilateral commitment of more and more of our Armed Forces and the expansion of the ground and air conflict into a major war, without allies and without the exercise of great diplomacy.

"I hope the President will recognize that many of us who vote in favor of this resolution do so in the hope that it will contribute, not to the widening of an unwanted war, but to the pursuit of an honorable peace." 111 *Cong. Rec.* 9530.

The chairman said:

"The Chair recognizes the gentleman from Wisconsin [Mr. Reuss].

"Mr. REUSS. Mr. Chairman, I shall vote for the resolution and the appropriation today because I believe that the troops we have committed in southeast Asia deserve the support—the supplies, the equipment, and the

facilities—which the President has told us they need. That is what my vote today covers. It is not a vote for enlarging the present conflict in South Vietnam, or a vote of satisfaction with things as they are.

"I hope that we will work vigorously to rehabilitate the United Nations, and then try to obtain a United Nations presence in Vietnam to protect and pacify the area.

"I hope that we will make clear our determination that the people of South Vietnam will then have an opportunity for democratic elections to determine their own future." 111 *Cong. Rec.* 9538.

Senator AIKEN said:

"I suppose that there may be different reasons for voting to approve the request of the President. Does the Senator from New York accept the statement that he would be voting to endorse the mistakes of the past and the plans for the future if he were to vote for this appropriation?

"Mr. JAVRS. I do not accept such a statement. I believe that there is all the difference in the world, as I tell my most respected colleague, between backing up what we have involved, or even the making of sufficient preparation should we wish to go further, and a command decision which would set forces in action in a totally new way from the way in which they had been used before.

"I do not regard a vote for the appropriation—which I propose to support—as being of the same character or quality as a command decision to send U.S. combat troops to participate in the ground struggle against the Vietcong." 111 *Cong. Rec.* 9454.

"Senator STENNIS. I shall first yield 10 minutes to the Senator from Tennessee.

"Mr. GORE. Mr. President, U.S. soldiers are in South Vietnam under orders. They are there at the command of the Commander in Chief of the U.S. Armed Forces. They have no choice. I expect to support the appropriation. I find it untenable for American servicemen to be sent into an area of danger without having supplied to them the equipment and the materials by which they can execute their orders with maximum safety to themselves and the interest of the United States.

"However, lest my vote be interpreted as a 100-percent endorsement of the policy by which American combat troops are in South Vietnam, I wish to say emphatically that it is not." 111 *Cong. Rec.* 9497.

Senator JAVRS said:

"Mr. President, I have heard with great interest the view of the distinguished senior Senator from Tennessee. I associate myself with them. However, what I have to say is in addition to what the Senator has already said with respect to an offensive for peace, the design of the United States, and the reason for voting for this appropriation. I shall not repeat those words. They were excellently stated. I consider it a privilege to join in them.

"What I say is a direct corollary to what has been said by the Senator from Tennessee. I cannot accept the statements of the President as to the meaning of my vote in support of this appropriation.

"I wish to make it crystal clear that I reserve the right to vote differently than as the President in his message said I would be voting if I were to vote in favor of the appropriation.

"The President has said:

"This is not a routine appropriation. For each Member of Congress who supports this request is also voting to persist in our effort to halt Communist aggression in South Vietnam."

"If that were all he said, that would not be so bad. However, the President went on and said:

"For we will do whatever must be done to ensure the safety of South Vietnam from aggression. This is the firm and irrevocable commitment of our people and Nation."

"The President then stated:

"South Vietnam has been attacked by North Vietnam. It has asked our help."

"Mr. President, I want to be consulted again, I say to the President of the United States, before we send divisions, rather than some of our Air Force and troops to protect our people who fight a war in Asia. I want to be consulted again. I expect to be consulted again.

"I do not want my vote in favor of the appropriation to stand as my vote for the continuation of that policy. Suppose we were to have differences with the South Vietnamese and they were to say to us: 'We do not want you here, Mr. American. Go home.' I want to be consulted again if we decide that we are not going to go home, but intend to stay, which we might very well do, and might have to do. I do not take my vote as a blank-check commitment. It may be of interest to have a person who describes himself as a liberal speaking about blank-check commitments. However, this is a very important point. Let the President and the Congress act as a team. Let it not be assumed by anyone that voting for this \$700 million, which we do advisedly, and which is pursuant to a resolution of August 10, 1964, gives a blank check to the President, and that it is the last request he will have to make of Congress except requests for more money.

"I hope the President will not let this vote go to his head. We are voting. . . ." 111 *Cong. Rec.* 9498.

"The Senator from Vermont is recognized for 6 minutes

"Mr. AIKEN. Mr. President, I quote from the President's message yesterday:

"This is not a routine appropriation. For each Member of Congress who supports this request is also voting to persist in our effort to halt Communist aggression in South Vietnam."

"Mr. President, I wish to make it plain that my vote is not intended as an endorsement of the costly mistakes of the past, nor as authority to wage war in the future unless such war has been declared by Congress. I realize quite clearly the position in which the President has found himself. I have wanted Lyndon Johnson to be a good President. I have wanted him to be a great President. I have wished with all my heart that I could help him with his problems.

"But I cannot let the impression go out from this Chamber that in voting for this appropriation I am giving blanket approval to waging undeclared war anywhere or delegating the right to express my thoughts to anyone." 111 *Cong. Rec.* 9499.

Senator CHURCH said:

"I understand that there is no limiting language that would reduce the powers the President now holds. But what concerns the senior Senator from Idaho, is that his vote, which he would like to give in support of the money requested because American lives are involved out there, and American troops must be furnished with all the equipment, supplies, ammunition, and protection that we can give them, may be construed as giving advance approval for decisions in the future that I have no possible way of knowing, such as the bombing of Hanoi, or, let us say, the enlargement of American combat forces in South Vietnam by some striking degree.

"I do not know what might happen. I would not want my vote to be construed as an endorsement of moves which might entirely change the character or dimension of our involvement in southeast Asia.

"As I understand it, the joint resolution is for the purpose of paying bills. . . .

"Mr. President, I should like to as the Senator, once again, whether by voting for the joint resolution the Senator believes that each one of us endorses whatever action may take place in the future"

"Mr. STENNIS. Well, I do not think so. No, I do not think so. But that is a decision that

every Senator must make for himself. It is not a blank check. I do not believe we are signing a blank check. We are backing up our men and also backing up the present policy of the President. If he substantially enlarges or changes it, I would assume he would come back to us in one way or another.

"Mr. CHURCH. I agree. The Senator knows that I have expressed misgivings about some aspects of our policy in Vietnam. At the same time I have supported the action the President has thus far taken in stepping up our military initiative. My views are on record. They have not changed.

"At the same time, I realize that our fighting forces in the field must be supported. But I would not want it to be said later—and it is for this reason that I have asked these questions of the Senator—that by my vote I have given carte blanche approval to future actions which I cannot possibly forecast, that might greatly change the character of the war out there." 111 *Cong. Rec.* 9500.

In discussing the Defense Appropriation Act of 1966, Senator Wayne Morse declared:

"Mr. President, I now turn to another concern. I find myself in a very difficult position in determining my vote on this bill. The bill contains many items with which I agree that I find it difficult to vote against it. But it provides \$700 million to support what I consider to be an unconstitutional and illegal American war in southeast Asia, making it difficult for me to vote for it. I suppose we can say jocularly, 'For once, Wayne Morse is on the spot.'

"But, Mr. President, I have decided to vote for the bill, with the RECORD showing my reasons for so doing.

"American boys in South Vietnam did not go there of their own volition. They went there because they were sent by their Government. I fully realize that as long as they are there, they must have every possible bit of protection that can be given to them, although I deplore the fact that, in my opinion, they are sent there to participate in a war that is unwise, unconstitutional, and illegal, in that the President has no constitutional power to make war in the absence of a declaration of war.

"It will be said, 'You should not vote money to conduct such a war,' and there is much merit in that.

"But as a liberal, I never overlook human values. When I vote for a bill that includes that \$700 million—and I will have a question to ask my good friend from Mississippi momentarily, as to where the \$700 million came from, and its justification—I am voting still protesting the war, but I am voting to protect the human values of the American boys who are fighting and dying under governmental orders in that war.

"When I balance the two problems that I have just outlined, I feel that I can vote for it in good conscience. I deplore the action of my Government in conducting this war without living up, as I have been heard to say so many times, to its constitutional obligations and its international treaty obligations. I am voting for it in defense of the men who have been sent, and not in approval of their being sent.

"But the record should also show my continued protest of the war itself. The President of the United States should make up his mind as to whether or not he wants to conform to the Constitution and the Congress should make up its mind as to whether or not it wants to declare war. In the absence of a declaration of war, the President, in my opinion, has no constitutional right to send a single American boy to his death in southeast Asia." 111 *Cong. Rec.* 21732.

The following statements occurred during the debates of the Supplemental Appropriations Act of 1966 (PL 89-374):

"Mr. DOW. Mr. Chairman, as one who is not in favor of escalating the conflict in Vietnam, let me say that I will vote for the bill

before us to authorize a total of \$4.8 billion as a Department of Defense supplement, southeast Asia, fiscal 1966.

"My affirmative vote for this bill is given with a sad heart. The men at the front should not be allowed to run short of the ammunition and equipment they need to defend themselves. That is the only reason I can see to vote for this authorization.

"The situation is different from one last year when there was an earlier authorization for the Vietnam conflict. At that time I did not support it, for administration spokesmen told us that funds were available in other accounts without legislation. The legislation then was intended as an expression of policy.

"Although voting today for the new legislation for munitions, I still do not favor the policy of escalation which the legislation makes possible." 112 *Cong. Rec.* 4463.

Mr. KASTENMEIER said:

"Mr. Chairman, the vote today on the supplemental military authorization bill, like the war in Vietnam itself, poses a great dilemma for Americans inside and out of Congress. The fact is that our war policies have gotten us into a situation which cannot be reversed by a vote on a single measure, but which will require a significant change in our approach to the terms by which we are willing to accept a settlement. However strong my reservations, objections, or criticisms of the policy that are engulfing us in a southeast Asia war, I am constrained to view and to vote for this measure as one to provide material support for our troops in the field.

"I do want to emphasize that I oppose our war policy in Vietnam. I criticized it when it took the form of an excessive response to the naval attack on our ships in the Gulf of Tonkin. I opposed it when it extended our efforts to bombing North Vietnam. I opposed it last May when it changed our role from one of advising South Vietnamese in their war against the Vietcong to one of making it our war. I opposed it when the bombing of the north was to be resumed in January.

"Regrettably, I must come to a similar conclusion about the economic assistance we are providing Vietnam as well. Last week I reluctantly voted for the foreign aid supplemental appropriations as a longtime supporter of foreign aid. The outstanding fact about the billions of dollars of foreign aid we have poured into Vietnam in the 10-year period from 1954 to 1964 is that it is a failure. It has completely failed to establish a viable government in South Vietnam and as a result is responsible in large measure for us being involved in such a major war in that country. While I am not convinced that the economic aid we are now providing the Vietnamese can be effective while we are at the same time engaged in heavy military operations in the same areas, I voted for that measure in the hope that some improvement in the condition of the Vietnamese people will result. The time is rapidly approaching however, when I will not be able to continue to support such expenditures, particularly in combination with military efforts with which I basically disagree.

"Thus, it should be clear that although I vote today in support of this authorization, it is the troops in the field that I vote to support and not the policies that got them there. Others have on the floor today sought to reaffirm the Gulf of Tonkin resolution which the President has relied on so extensively as the basis for the escalation of the war in Vietnam. Particularly, in the light of this intensification and the implication that further escalation lies ahead, I want it clearly understood that my vote today does not reaffirm that resolution. In fact, if the vote today were simply on the language of that resolution I would vote against it, in view of the construction that has been placed on it. Certainly if the war spreads, I may regret the action taken today and my own assent

to it. I trust and pray that will not come to pass. 112 *Cong. Rec.* 4468.

"Mr. FRASER. Mr. Chairman, my vote for this supplemental appropriation for the Vietnam conflict is not an endorsement of the policies the United States has been following in Vietnam.

"I believe that some of our actions in Vietnam have not been wise. It seems to me that the reasoning offered in support of those policies would lead us on a course of action in the future that is not in our national interest.

"My vote today is based on the need to sustain the troops already in Vietnam." 112 *Cong. Rec.* 4468.

Mr. BINGHAM said:

"Mr. Chairman, earlier today the distinguished gentleman from California [Mr. Co-helan] submitted a brief joint statement on behalf of 78 members of this House. I was privileged to be among the sponsors of this statement.

"I shall vote for H.R. 12889 for the purpose stated in the committee report. But in so voting, I do have reservations, and these reservations go somewhat beyond the terms of this joint statement. My vote does not mean that I am wholly satisfied with the administration's policies with respect to Vietnam. While I agree with President Johnson that we cannot withdraw from Vietnam and let the Communists take over, and while I salute him for resisting the pressures of those who would expand and escalate the war, I do not believe that we have yet been sufficiently resourceful or flexible in our efforts to get negotiations started. In fact, recent developments create the impression that the administration is no longer giving much thought to the question of how to achieve a negotiated settlement.

"Why, then, am I voting for this supplemental authorization bill? First, for the simple and obvious reason mentioned in the joint statement, that we must give our forces in Vietnam all the support they need, so long as they are there. The second reason is more complicated: I fear that a substantial vote against the authorization might actually impede our objective of getting talks started by encouraging Hanoi to continue its apparently total intransigence.

"This leads to a question which I submit we should all ponder. It is certainly one of the key questions before us at this time. The question is: Why, in spite of all the President's efforts since last April to get discussions started with Hanoi, has Hanoi steadfastly refused to budge?

"Rather than discuss this question today, in the atmosphere of a debate on this defense authorization bill, I intend to examine it at some length tomorrow under special orders, and I would be glad to have any Members join in a discussion of the question at that time. 112 *Cong. Rec.* 4460.

"Mr. CLANCY. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. Kupferman].

"Mr. KUPFERMAN. Mr. Chairman, I am voting for this appropriation because I cannot leave our American troops in the lurch without proper protection on a foreign shore. But it must be pointed out that it was a great mistake to have put them and us in this position." 112 *Cong. Rec.* 4460.

Mr. RIVERS said:

"Our men are in Vietnam. They need our support and our help. Passage of this bill is that support and that help.

"Let the debate as to whether we should be in Vietnam, or how we should conduct the war in Vietnam, be carried on at another time. I will join in such debate. This is not the time for that debate. This is the time for only one thing—and that is to vote our fighting men the weapons that they need." 112 *Cong. Rec.* 4441.

Mr. ANDERSON said:

"Certainly, there is nothing in the wording of the legislation now before us which ex-

PLICITLY commits anyone to an approval of the various policies that have been pursued by the administration with respect to the matter of Vietnam. It could be argued that implicit in the approval of this authorization bill is the approval of current policy. However, I think that we would be establishing an unwelcome precedent indeed if we were to attempt to read too much into the passage of a military authorization bill. By the same token, I think that the 76 Members of this body who have signed a manifesto or declaration that their vote for this measure does not carry with it approval for the escalation of the war or our deeper involvement in southeast Asia will also 'carry coals to Newcastle'. . . . I support this measure and with it the heroic sacrifices being made by our men in South Vietnam. At the same time I do not want history to record that by this vote I gave this administration my blank check with respect to its future conduct of policy in South Vietnam." 112 *Cong. Rec.* 4462.

Mr. ABBITT said:

"Mr. Speaker, I support the rule and the bill, H.R. 12889, the supplemental defense authorization bill, commonly known as the Vietnam military bill. This legislation is of vital importance, not only to our military men fighting in Vietnam but to all Americans.

"Our boys, through no choice of their own, are in Vietnam where they are being shot at, many of whom are being wounded, mutilated, and killed. It is inherent upon us to furnish them with all necessary military material that is at our command so that they will not be lacking one whit to protect themselves and to achieve the goals for which they have been sent. We either must furnish every needed article of offense and defense or else it is our duty to pull them out. We must support them wholeheartedly and fully or else bring our boys back home. It is not fair to them and it is not fair to America to do less." 112 *Cong. Rec.* 4431.

Mr. FARSTEIN said:

"Mr. Chairman, in the past, I have expressed reservation about some of the administration's actions in Vietnam. Recently, I joined a number of other Representatives in urging the President, among other things, to deescalate our military efforts in Vietnam as a further effort to bring the war from the battlefield to the conference table. I still feel no good can come from further escalation and do not wish this vote to be considered otherwise. I desire to create a climate leading to the conference table.

"Today we are faced with the task of voting on an appropriation for \$4.8 billion for Vietnam. Each Member must do some soul searching before casting his vote. I, for one, have carefully reviewed my predilections and balanced them with the Nation's well-being.

"American boys are committing their lives and honor to this fight in the Far East. These young men must not be deprived of equipment, necessary hospitals, medical treatment, essential supplies, and helicopters needed to help them survive in this jungle war. The Congress, regardless of any reservations and unanswered questions on administration policy, must not fail to grant the funds to supply these brave men. I do not desire to be in the position of turning my back on our young men who are presently sacrificing their lives in Vietnam.

"On the scale, I find I must vote in favor of the appropriation." 112 *Cong. Rec.* 4448.

Senator JAVITS said:

"Mr. President, I feel moved to speak because I think there is a point of view which has not been expressed.

"Those of us, like myself, who will vote against the Morse amendment and want to table it, and who will vote for the bill to give the President additional funds, are not again writing a blank check.

"I do not, and I cannot accept the vote against the Morse amendment as being a reaffirmation. Reaffirmation is the word used by the Senator from Georgia [Mr. Russell]. He made a most moving speech, with which I agree in substance, as well as the speech of the Senator from Massachusetts [Mr. Saltonstall].

"I cannot accept the fact that this will be a reaffirmation of the resolution of August 1964. The fact is that as the President has handled this situation he leaves us no other alternative. He has left no alternative for those who disagree with his policies except to vote against an authorization on another occasion. As I agree with his policies to date, I shall vote for this authorization. But if tomorrow I disagree with his policies the President leaves us no alternative but to vote against an authorization, and I shall do so. 112 *Cong. Rec.* 4374.

Mr. CLARK said:

"I should like the Record to show my complete agreement with the position taken by the Senator from Arkansas. I shall vote against the Morse amendment and I shall vote in favor of the bill.

"I do both with a heavy heart, most reluctantly, as the least unacceptable of all available choices. But I wish to make it very clear indeed that my votes, both against the Morse amendment and for the bill, do not indicate an endorsement of the policy which I fear the administration is following." 112 *Cong. Rec.* 4382.

Mr. ROSENTHAL stated:

"I am not happy with the minimal role to which Congress is thus consigned. Nor am I convinced that the Congress has been adequately consulted or respectfully attended in the formulation of policies in Vietnam. But I do not accept the proposition that this broad sense of Congress.

"I do not believe my own vote, simply as a vote, properly represents my viewpoint on this matter, any more than the total vote of Congress adequately represents the total sentiment of Congress. Complicated positions on matters of war and peace are not to be abbreviated by such simple symbolism. So I deny the legitimacy of this vote as a deep expression of individual or collective viewpoint on the full range of policy in Vietnam. I am voting for support and supplies for the American troops already committed to Vietnam." 112 *Cong. Rec.* 4455.

Senator McGOVERN said:

"Mr. President, I am voting today to provide the necessary equipment and supplies for our forces in Vietnam. My Senate colleagues and my constituents know that I have opposed our growing military involvement in southeast Asia. I believe that we have no interest there that justifies the heavy loss of life involved in trying to settle a Vietnamese civil conflict with American troops.

"But since we have sent 300,000 men to southeast Asia, we have no practical alternative now except to provide them with the equipment they need to survive.

"I want to make it clear that my vote for this military equipment bill is not an endorsement of our Asia policy. Rather, my vote reflects my conviction that we must protect men we have sent into battle no matter how mistaken the policy may be that sent them to that battlefield." 112 *Cong. Rec.* 4409.

And on March 20, 1967, in introducing legislation on supplemental defense appropriations, Senator Russell framed his argument in favor of the bill in the following manner:

"It [the legislation] will not alter the course. . . .

"Presumably, it will not alter the course of negotiations one way or the other. But it will provide the materiel and equipment needed by our gallant men who are doing the fighting and dying thousands of miles

from home. The funds contained in this bill are urgently needed for the ammunition, for the aircraft, for the trucks, for the travel, for all the multitudinous operations of our forces and those allied with us in southeast Asia. A vote for this bill is a vote to give American soldiers, sailors, and airmen the tools needed to protect themselves and to continue the valorous assignment which they have been asked to perform. . . ." 113 *Cong. Rec.* 7189.

During the same debate, Senator Holland declared:

"Mr. President, I call attention to the fact that the distinguished Senators from Georgia [Mr. Russell], from North Dakota [Mr. Young], from Mississippi [Mr. Stennis], and from Maine [Mrs. Smith], and their associates, have told us that these amounts are necessary to be spent or committed between now and the end of this fiscal year, June 30—not far away—to give the greatest measure of protection that we can to our men who are fighting there, thousands of miles away, not because they want to but because our Government has sent them there.

"Mr. President, there may be plenty of arguments about the wisdom of our national position, and about whether we should ever have gotten into it; but it is inconceivable to me that anyone could argue on this floor that we should withhold the support which is recommended by honest, dedicated men and women as necessary to sustain our effort in Vietnam by the approximately half million American boys and girls who are there." 113 *Cong. Rec.* 7194.

And urging the support for the appropriations Holland later contended:

"... The question is now: Shall we or shall we not appropriate funds which all of the authorities—who should know—including our own distinguished Senators who have studied this question—tell us must be appropriated to give our men the kind of protection, the kind of weapons, the kind of ammunition, the kind of equipment, the kind of clothing, the kind of living quarters, the kind of medical supplies which they need?

"Shall we do it, or shall we not?"

"I think that is the only question. That is the simple question here." 113 *Cong. Rec.* 7197.

In explaining his vote for the supplemental Defense Appropriation Act of 1967, Congressman Cederberg observed:

"[W]e have a commitment in Vietnam—and we can argue all we want as to whether we should be there or whether we should not be there—the fact is that we are there, and the fact is that when we have this mission we must do everything we can to support the men who are fighting it in every way we possibly can. 113 *Cong. Rec.* 6878.

Although concerned about United States military involvement in Vietnam, Senator Clark declared on August 22, 1967: "I think, of course, we should give full support and all necessary military equipment to protect their lives." 113 *Cong. Rec.* 23488.

And, on the same day, Senator Symington supported the military appropriations with the argument that:

"These men have a right to count on Congress backing them up. Many of them did not want to go there. Tens of thousands of them have been drafted. They are fighting with superb courage in the American tradition.

"There is no way, in my opinion, that you could make a blanket cut of 10 percent in this budget without definitely affecting the supplies, the ammunition, and the support that this country owes to the youth that Congress has approved drafting and sending to Vietnam in order to protect our future security. . . ." 113 *Cong. Rec.* 23470.

In voting in favor of the Defense Appropriations Act of 1968, Senator Fulbright declared:

"... I ask that not only the Senate but the press report it in the proper context so that people are not led to the conclusion that, by voting for the military appropriations—which I intend to do—it is thereby endorsing a declaration of war, which was not my intent. 113 *Cong. Rec.* 23501.

The following remarks by Senators Gore and Pastore took place during the debates on the Department of Defense Appropriations Act of 1969:

"Mr. GORE. I am grateful for the able speech the Senator is making. I join him in opposing the amendment.

"With respect to policy, as the able senior Senator from Virginia is aware, I have resisted this country's policy in Vietnam. I have questioned it over a period of years. I believe in so doing I was within the proper function of a U.S. Senator.

"But the men who are there are there in consequence of a policy which, though I disapprove it, has nevertheless been the policy of the Government. The soldiers are there, not by their wish, but at the command of their Government, and I do not wish to withhold bombs, ammunition, artillery, weapons, equipment or whatever they need to execute this mission, erroneous as it may have been as a matter of policy. It is a mission assigned to them, and I wish to see them execute it with maximum efficiency and with maximum safety to themselves. 114 *Cong. Rec.* 18832.

"Mr. PASTORE. I wish the Senator from Tennessee had been here yesterday to hear the point I tried to make. I, too, have had my qualms about Vietnam, and whether or not we should have been involved there in the first place. But the Senator has put his finger right on the problem. I think it would be a tragic mistake for us to try to make the Senate of the United States a war room, to attempt to decide what kind of strategy we are going to follow.

"I think if Senators believe our policy ought to be changed, they should do whatever they can about changing the policy; but as long as our boys are there, we should not do anything which will serve in any way to demoralize our troops. We must promote their safety and do everything we possibly can to assist them while they are there. As the Senator from Tennessee has pointed out, they are not there by their own choice, and most of them would rather be at home." 114 *Cong. Rec.* 18832.

Congressman Bingham, commenting in the House on the same act, stated:

"Mr. BINGHAM. I think the Chairman, I would just like to add, with all due respect for the distinguished members of the subcommittee, that it would be a wonderful thing if the various points of view on the underlying issues could be represented in the subcommittee, as is true in connection with other subcommittees.

"Mr. Chairman, I have supported all efforts to cut unnecessary expenditures out of this bill, including, particularly, the appropriations for the deployment of an anti-ballistic-missile system which I believe will provide us with no security and may well lead to a disastrous new phase of the arms race. I also supported the amendment proposed by the gentleman from California [Mr. Brown], which would have called for a cessation of all bombing in North Vietnam as a necessary step to meaningful negotiations. On that score, and in various other respects, I am in disagreement with our policies with regard to Vietnam, as I have said frequently in this House and elsewhere.

"These amendments having failed of adoption, the question now before me is whether to vote for or against the bill as a whole. Some Members who share my views on Vietnam and for whose judgment I have the greatest respect are voting against the bill. My reluctant decision, however, is to

the contrary. The vast bulk of the funds appropriated by this legislation are for purposes with which I cannot quarrel and which I must support, such as the pay of our armed services personnel and the provision of essential supplies and equipment for them. The recent tragic events in Czechoslovakia reemphasize the need for the United States to maintain a strong defense establishment no matter what happens in Vietnam.

"I know that there are expenditures contemplated in this legislation that are undesirable and others that are unnecessary. I believe that once again we have witnessed the phenomenon that requests by the military for appropriations are treated far more kindly and with a less critical eye in this House than the requests made by those officials who have charge of our essential domestic programs. Nevertheless, in my judgment, there is so much in this bill that is clearly necessary and desirable that, overall, an affirmative vote is called for.

"I might have considered casting a negative vote as a gesture of protest if I believed that such a gesture would be an effective way of pressing for a change of policy with respect to Vietnam, but I do not so believe. It would be a grave mistake for anyone, including the Saigon government, to measure the degree of dissatisfaction with our policy on Vietnam by the number of negative votes on this bill. The dissent on Vietnam is better measured by the 40 percent vote for the minority plank at the Democratic National Convention in Chicago." 114 *Cong. Rec.* 26567.

And in August, 1967, Senator Pastore announced his support for the Defense Appropriations Act of 1968 with the statement: "Mr. President, I shall vote for this bill. I believe that all of us feel, right down deep in our hearts, that however we feel about Vietnam, we are there now, and cannot take our feeling out on those boys by not supporting this bill." 113 *Cong. Rec.* 23501.

And as late as July 6, 1970, Senator Church expressed similar opinion. Explaining his reasons for supporting the appropriations although he opposed the war, Church explained:

"Mr. President, I first spoke out against the war in Vietnam in 1963. I have opposed this war; I have advised against it; I have tried to do everything in my power, as one Senator, to end it. However, Mr. President, I have also supported every appropriation to come before the Senate to provide the best of materiel to our men in the field. Once our men are there we must provide the best that money can offer until such time as we may bring them home. Just as I have supported all bills to grant aid to our men in the field, I intend to support legislation, such as the bill before this body today, which will grant them the finest in care when they return home with medical needs. It is our duty to provide the finest in medical care to our Vietnam veterans. I strongly support the Senator from California (Mr. Cranston) and the committee in their efforts to obtain more funds for the quality care of American boys who are wounded, either medically or psychologically, by the war in Vietnam." 116 *Cong. Rec.* 510598 (daily ed., July 6, 1970).

In discussing the Defense Appropriation Act of 1966, Senator Morse registered his "continued protest of the war itself." 111 *Cong. Rec.* 21732. Morse contended "in the absence of a declaration of war, the President in my opinion, has no constitutional right to send a single American boy to his death in Southeast Asia." 111 *Cong. Record* 21732. However, Morse went on to declare:

"But I shall vote for it also because of its many other features with which I find myself in enthusiastic support; namely, the long overdue pay increase for the military; the provision that was adopted in regard to the so-called 35-65 formula in connection with the building of ships." *Id.*

Similarly, Congressman Farbstein was ap-

parently persuaded to vote for military appropriations under this rationale. During Congressional debate of March 1, 1966 Farbstein and Rivers discussed the bills provisions.

Mr. FARBSTEIN. "This bill also includes appropriations for housing, hospitals, doctors, food, and clothing for our Armed Forces; does it not?"

Mr. RIVERS of South Carolina. "This bill and the rest of the supplemental together, yes. That is absolutely right. You cannot fight a war without taking care of such necessary things as that." 112 *Cong. Rec.* 4441.

Congressman EDWARDS said:

"Mr. Chairman, I believe my position is clear on our commitment in southeast Asia. I have been opposed to our military policy in Vietnam. I am strongly opposed to escalation of the war, and I am distressed by the deterioration of our foreign and domestic policies which has been brought on by our Vietnam operations.

"I will vote for H.R. 13546, the supplemental southeast Asia appropriation measure before this House today. I will do so because I feel it is unwise to decide policy issues through the appropriations process. It is the job of the authorizing committees to debate policy matters. It is the job of the Appropriations Committees to oversee the administration of duly authorized funds . . .

"My vote for this appropriation means two things. It does not alone mean that I do not believe it is proper to express any policy preferences in an appropriations measure. It also means that an appropriations measure should not be used by anyone else to express their policy preferences. My vote today is not an endorsement of our past policy in Vietnam. It is merely a certification of prior House action on authorization measures." 112 *Cong. Rec.* 5820.

Such a view was somewhat tangentially touched upon by Senator Russell when he introduced the supplemental defense appropriation bill of 1967. In introducing the bill Russell declared:

"I have no intent at this time to initiate an extended discussion of the merits of the war in Vietnam. That ground has been well plowed, and is thoroughly understood by all concerned. Each Member of the Senate has his own individual views on this subject. This is not a political bill." 113 *Cong. Rec.* 7189.

On the same day Senator Young cautioned against determining war policy by means of an appropriation bill. Young stated:

Mr. YOUNG. "If the Senate adopts the policy of determining war policy on an appropriation bill, would it not be a precarious situation, sometime in the future, when we might be engaged in another war, soldiers would be reluctant to enlist because they would not know whether they would be supported financially with adequate equipment and supplies which they would need to fight a war?" 113 *Cong. Rec.* 7198.

Congressman LAIRD said:

"Mr. Chairman, even if the war were to end on June 30, 1967, these funds would be needed. Virtually every dollar that is to be appropriated in this bill is needed whether the war ends June 30 of 1967 or whether it ends on June 30, 1968 or 1969, because these stocks—aircraft, ammunition, and spare parts—have been used in the conduct of the war in Vietnam. We have drawn down our stocks all over the world, and the funds that are to be made available in this supplemental appropriation are needed to replace those stocks that have been used and consumed in fighting the war in Vietnam.

I believe it is very important that we bear in mind today that what we are doing by our action in supporting this bill and in voting for this bill is restoring the equipment and the supplies that have been used in the conduct of the war during fiscal year 1967." 113 *Cong. Rec.* 6880.

Senator YOUNG said:

"[W]e have been financing this war for some months by the reprogramming of funds, borrowing from emergency funds, delaying housing, and by other means. Much of this money has already been committed for war purposes; and if we were to decide to get out of Vietnam tomorrow, I would think that most of this money would still be needed." 113 *Cong. Rec.* 7196.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF ROBERT L. LEGGETT

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss:

Robert L. Leggett, being first duly sworn upon oath, deposes and says, as follows:

I am a member of the Congress of the United States, representing the Fourth District of California. I have been a member of the Congress for eight years during a period when the American troop commitment in Vietnam escalated from 20,000 authorized by President Kennedy to 548,000 authorized by President Johnson.

At no time during said period have I been requested by the President or any other person or entity to declare war on the country of North Vietnam. I have not had the opportunity to vote for such a declaration pursuant to the provisions of Article I, Section 8 of the Constitution that states, "The Congress shall have Power To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;" The Constitutional inference is that this power is exclusive in the Congress of the United States.

I personally have never submitted a resolution to declare war on North Vietnam because I am opposed to waging war against that country.

The Congress has never been consulted as a body with respect to the troop escalation. Escalations were merely periodically reported to us—usually in the newspapers.

I have not indirectly declared war through voting on individual pieces of legislation providing for the national defense.

The Congress has the Constitutional duty also under Article I, Section 8, of providing for the national defense as follows:

"The Congress shall have Power To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

"To provide and maintain a Navy;

"To make rules for the Government and Regulation of the land and naval Forces;

"To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

"To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;"

I have fulfilled my obligation under this Section by working on the Armed Services Committee for the enactment of a proper Defense Authorization Bill.

The Defense Authorization Bill provides totally for defense. No line items have been inserted in said legislation for eight years which would declare war. No line items were contained directly authorizing any particular expenditure in Vietnam.

Efforts were made on numerous occasions through the years to limit American involvement in Southeast Asia. Procedural rules have always kept these issues from a specific vote in the House of Representatives.

Because we have a Germaneness rule in the House of Representatives, war amendments have always been held not in order respecting other legislation not related to

national defense. Rule XVI, Section 794, reads as follows: "... and no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

In summary, it has simply not been possible for me to discharge my duty as I saw it under the Constitution to provide for the national defense and not vote for defense authorizations and appropriations as they were presented to the Congress.

I, at no time, have considered that my discharge of obligations under Article I, Section 8, § 140, indirectly discharged my obligations under Article I, Section 8, § 131, relating to declaring war.

It is my view that this legal position is shared by many Members.

It is my considered view of the facts that even members who have supported the military action against North Vietnam have not intended to indirectly declare war on that country. To the contrary, debates have occurred on many occasions in the Congress and before my Committee whereby it was the consensus that war should not be expressly declared for good and efficient reasons.

I consider, therefore, that American participation in the war in Southeast Asia is a violation of the Constitution of the United States, and is therefore unconstitutional.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF BENJAMIN S. ROSENTHAL

The Honorable Parren J. Mitchell, *et al.*, Plaintiffs, v. Richard M. Nixon, *et al.*, Defendants.

District of Columbia, ss:

Benjamin S. Rosenthal, being first duly sworn upon oath, deposes and says as follows:

1. I reside at 88-12 Elmhurst Avenue, Elmhurst, New York.

2. I am now and have been a Member of the House of Representatives of the Congress of the United States from the Eighth District of the State of New York since 1962.

3. It is my belief that House passage of general military appropriations bills is not an exercise of Congress' Constitutional right to authorize war. Because of the mechanics of the legislative process in the House, military appropriations bills do not represent a decision of a majority of those voting to enact the bill, that the U.S. shall fight a war, nor does a Congressman's vote for military appropriations necessarily mean that he is for the war and wishes to authorize it. Further, a Congressman's failure to vote for legislation to cut off the use of funds does not mean that he favors the war and wishes to authorize it. This will all become more clear if I set out the mechanics of the legislative process in the House.

4. In the House, committee chairmen wield an amount of power which is vastly disproportionate to their numbers. They have great, and often decisive, influence on what provisions are included in legislation before their committees and on what legislation is reported out of their committees. A committee chairman exercises great if not decisive influence on how much floor time shall be allotted for full House debate on his committee's bills, on whether the bills can be amended on the floor, and on what other rules of procedure will be followed on the floor in regard to his Committee's bills. When the House considers a bill while in the Committee of the Whole, rather than sitting as the House of Representatives, the Chairman of the committee which reported out the bill usually manages it on the floor and allots time to speakers of his party.

When a bill is enacted by the House but must go to conference with the Senate, the committee chairman whose committee reported out the bill appoints the House conferees. Normally, he will pick conferees whose

views are similar or identical to his own rather than conferees who may happen to disagree with him. This helps him to insure that, as reported back to the full House from the conference, the bill will reflect his views.

5. Because of the seniority system, House Committees are disproportionately chaired by older Congressmen who in the main are from rural, one-party districts from one section of the country.

6. The House Armed Services Committee handles military authorization bills, which authorize the expenditure of funds for military purposes. The House Appropriations Committee handles bills which actually appropriate the money that has previously been authorized in authorization bills. The House Rules Committee, in consultation with the chairman of the Armed Services and Appropriations Committees, lays down the procedural rules under which bills from the latter two committees will be debated and voted upon on the floor.

7. During the course of the war in Indo-China, the chairmen of the Armed Services Committee have been the late Carl Vinson of Georgia, the late Mendel Rivers of South Carolina and Edward Hébert of Louisiana; the chairman of the Appropriations Committee has been George Mahon of Texas, and the chairmen of the Rules Committee have been Howard Smith of Virginia and William Colmer of Mississippi. All of these chairmen have indicated support for the war in Vietnam.

8. Unless it were to be introduced as an amendment on the floor (which I shall discuss later), a bill to prevent authorized or appropriated funds from being used to fight a war in Indo-China would have gone to the Armed Services or Appropriations Committees. But the views of the chairmen and most of the members of these committees meant that these committees would not report out such cut-off bills for adoption or rejection by the House. This was true regardless of whether the cut-off bill was separate from any other legislation or was only one provision in a larger military authorization or appropriations bill. Thus, the opponents of the war were, for all intents and purposes, disabled from working through the committee system.

9. When a military authorization or appropriation bill is reported out from committee and comes before the House for action, the House does not sit as the House of Representatives when debating and amending the bill. Rather, the bill is considered in Committee of the Whole. When the Committee of the Whole has concluded debating and amending the bill, the House reconvenes as the House of Representatives to vote on the bill. But when the House reconvenes as the House of Representatives, there is no further debate on the bill. Moreover, the House cannot add any amendments which were either rejected in the Committee of the Whole or were not passed upon in the Committee of the Whole. All the House of Representatives can do regarding amendments is to accept or reject amendments that were previously added in Committee of the Whole. When the House subsequently sits as the House of Representatives, each Congressman who votes on the previously added amendments and on the final bill may have his vote recorded, which means that his constituents, his colleagues, the press and others can tell how he voted.

10. The procedural rules governing the Committee of the Whole are materially different from the rules which normally govern when the House sits as the House of Representatives. Moreover, the rules governing the Committee of the Whole ensure that, as hammered out in Committee of the Whole, military authorization and appropriations bills do not represent a considered and intentional decision, by at least a majority of those voting to enact the bills, that this nation shall fight a war.

11. In Committee of the Whole, a quorum consists of only 100 members, and a majority of that quorum is 51 members. Furthermore and very importantly, until the 1971 changes requiring recorded teller votes in Committee of the Whole, there were no recorded votes on amendments to bills. Thus, in regard to military authorization or appropriations bills in Committee of the Whole, there would have been no way to tell whether a Representative voted for an amendment such as one to cut off the use of funds in Indo-China, whether he voted against the amendment, whether he voted at all or even if he were present when the amendment was considered. This inability to tell how a Representative voted on an amendment or even whether he voted at all was a factor conducive to not making a conscious, intentional, and deliberate decision on whether the United States should fight a war.

12. When military authorization or appropriation bills were considered in Committee of the Whole, the chairmen, respectively, of the Armed Services and Appropriations Committees would be the managers of the bill and would allot floor debate time to speakers from their political party. The ranking Republican member of these committees would allot floor time to Republican Congressmen. The Chairmen of the committees, and the ranking Republicans, were all of generally similar views on Vietnam. The chairmen would see to it that the particular authorization or appropriation bill under consideration was treated as a unitary "package". From a practical point of view, there was a restriction on the opportunity for the introduction of, debate upon, or voting on the amendments to the bill. Time to speak was not fairly apportioned among proponents and opponents. Thus, an amendment to cut off funds for the war would receive short procedural shrift, as compared to other amendments connected with the war. Thus, as hammered out in Committee of the Whole, a military authorization or appropriation bill could not represent a conscious and intentional decision by at least a majority of those voting on the bill that the nation should fight a war in Indo-China.

13. As previously stated, when they are hammered into final shape in Committee of the Whole, military authorization and appropriations bills are then acted upon by the House, which reconvenes as the House of Representatives to take such action. But the House acts upon the bill in the exact form in which it comes out of Committee of the Whole. The House, sitting as the House of Representatives, does not further debate the bill. It cannot add amendments which have been rejected or not passed upon in Committee of the Whole. It votes only on whether to accept amendments that were added in Committee of the Whole and on the final version of the bill.

14. The only exception to the procedure whereby the reconvened House does not merely vote on the bill as it emerged from the Committee of the Whole is as follows: It is possible for the reconvened House to enact a motion to conditionally or unconditionally recommit the bill to Committee of the Whole. But the standard House procedure is for the Speaker to recognize a legislator whom the Speaker knows will move to recommit the bill unconditionally. Since an unconditional recommitment would open up the bill for wholesale changes upon its return to the committee, and since there is a reluctance to go over the same ground again in the committee, the motion to recommit unconditionally is usually voted down. Under the operative rules, the motion to recommit unconditionally precludes any further motion to recommit that might be made. Thus there could not be a motion to recommit upon the condition, for example, of an amendment to cut off funds for the war. Thus the House must proceed, without debate, to vote on the authorization or appro-

priations bill in the form in which it emerged from Committee of the Whole.

15. As it emerges from Committee of the Whole, an authorization or appropriations bill represents a "package" or "lumped" bill, which authorizes or appropriates money for a great variety of military needs, many of which needs are essential to national security, such as ships, planes, bases, and military salaries. The costs of the war are not separately earmarked in the bills, so they cannot be separately identified. Moreover, the costs of the war are substantially less than half of the total monies appropriated for national defense, and over 80% of the forces for which money is authorized or appropriated are not in Indo-China.

16. Because Congressmen support the essential defense needs such as ships, planes, and salaries provided for in an authorization or appropriation bill, most of them have felt that they must vote in favor of the bill even though some might oppose the war, or oppose the use of part of the bill's monies to finance the war, or would not vote to authorize the war in Indo-China. There is thus no way validly to generalize that the enactment of general military appropriations or authorization bills represents an intentional decision by at least a majority of Representatives voting on the bill that the United States should fight a war in Indo-China.

17. I have pointed out that House procedure has made it exceptionally difficult to bring up a bill or amendment cutting off money for the war. I have also tried to show that a Congressman's failure to vote for a fund cut-off does not necessarily mean he favors the war or wishes to authorize it. Congressmen have felt strongly that they cannot cut off money to American servicemen who are already in combat in the field and who need ammunition, food, shelter and other materiel requisite to survival. For these reasons, Congressmen have not voted for a fund cut-off even though they oppose the war and would not vote to authorize it.

18. In addition, I believe that some Congressmen who would not vote to authorize the war, will not vote for a fund cut-off because they do not believe that a fund cut-off is a proper way to terminate a war.

19. An appropriations bill enacted without a fund cut-off cannot realistically be equated with a bill which is divorced from appropriations and which independently and intentionally authorizes war. The fact that Congress enacts appropriations bills without cutting off money does not mean Congress would be willing to authorize the war if asked to do so. It would be much harder for the Executive to get Congress to intentionally authorize the war than to get Congress to enact an authorization or appropriations act without a fund cut-off.

There are several reasons for this. If Congressmen were asked to authorize war in Indo-China in a bill independent of appropriations, they would think about this very carefully because there could be no doubt they are clearly being presented with a decision for or against war. Each Congressman would also think about it carefully because his vote would be recorded and would therefore be visible to the press and public, and he would be held accountable for his vote by his constituents. There would have been an earnest debate in Congress and in the nation at any time since 1960 on whether war should be authorized in Indo-China. Such a Congressional debate would have raised all the questions incident to the desirability of committing this nation to fight a war in Asia, whether American troops should be sent to Indo-China, whether the war was in the national interest, and so forth. At the end of such a debate, if a Congressman had decided to vote against declaring or authorizing war, he would not have had to feel that he was cutting off necessary monies to men in combat.

But the situation is entirely different in regard to military authorization and appropriations bills. As stated above, these bills are considered under procedures which restrict sharply the possibility of introducing and debating amendments to cut off funds. The bills do not clearly present the decision of whether to fight a war, since they are "packages" which provide money for a tremendous number of defense needs. Some Congressmen feel that a cut off, even one at a future date, could endanger our men. Votes on amendments in Committee of the Whole have not been recorded in the past, so that a Congressman's constituency is not aware of how he votes on amendments. But even if a Congressman were to announce that he voted to cut off monies, or if otherwise his position became public knowledge, some constituents might be angry with him for possibly endangering troops by cutting off monies. In contrast, his constituents might have agreed with him or been sympathetic with him if he refused affirmatively to authorize war on a war bill or resolution that was wholly divorced from cutting off funds.

Finally, even if Congress were to enact a general authorization or appropriations bill containing a provision cutting off monies, the President could veto the bill. It would be virtually impossible to muster the $\frac{2}{3}$ majority necessary in each House of Congress to override the veto, and, because our armed services cannot be totally left without funds, Congress would have to enact a new bill satisfactory to the President which did not contain a cut-off of monies.

20. In May 1965 and March 1967, the Executive, close to the end of the fiscal years involved, said it had run out of money to use in Vietnam, and Congress enacted supplemental appropriations to be used in Vietnam for the remainder of those fiscal years. I voted for the supplemental appropriation in 1965 and against the supplemental appropriation in 1967. However, in my view, votes for these supplemental appropriations did not represent a declaration, authorization, or ratification of war. Many Congressmen felt it necessary to vote for these bills because American servicemen were already in combat in the field and the Executive said the money was immediately necessary to provide them with requisites of survival such as food, ammunition, shelter, etc. In fact, at one point we were told by the President that to deny supplemental appropriations would be to deny support to men who are risking their lives. Thus many Congressmen voted for the supplementals even though they did not approve of and did not wish to authorize a large war in Indo-China.

21. Congress voted in 1967 and 1971 for extensions of the Selective Service Act. I voted for the 1967 extension of the draft, and against the 1969 and the 1971 extensions of the draft. But a vote for extending Selective Service is not a vote to declare, authorize or ratify the war in Indo-China.

This country has had a draft since 1940, in both times of war and times of peace. It obviously needs an army in peacetime, and this is aside from the fact that troops are fighting in Vietnam. Unless and until there is a volunteer army, the army must be raised by conscription. Thus, Congressmen felt it necessary to vote to extend Selective Service even though they would not have voted to authorize the war and were opposed to using American troops in the Indo-China war.

Moreover, any attempts to amend the Selective Service extension bills to cut off the use of troops in Indo-China would have in the House of Representatives run into the same kinds of procedural obstacles that I've discussed earlier in connection with appropriations. Like authorization bills, Selective Service renewal bills go to the Armed Services Committee. Like authorizations and appropriations, Selective Service renewals are considered in Committee of the Whole. Thus,

a bill to end the use of troops in Indo-China would not have been reported out of committee, and a floor amendment to achieve that objective would not and did not receive a fair opportunity to be introduced and considered. The same procedural reasons which demonstrate that the absence of a fund cut-off does not mean Congress has authorized war also demonstrate that the absence of a troop cut-off does not mean Congress has authorized war.

Finally, as long as the U.S. was fighting a war, many Congressmen, even though they opposed the war, felt the draft was necessary to permit the replacement of troops who had already served in combat.

Thus, for all these reasons, it is my view that many Congressmen felt it necessary to vote for Selective Service extensions though they did not intend and would not have voted to authorize the war.

22. Because of his wide access to the mass media, his position as national leader, his position as head of his party, his patronage power, and his fund-raising power, the President has tremendous political power and great advantages in the legislative process. With this power and these advantages, he might be able to get Congress to intentionally authorize war if Congress really thinks we should fight. But as I've said before, it would be harder for him to get Congress to intentionally authorize war than for him to get Congress to pass appropriations and Selective Service bills without a cut-off of funds or troops. Cutting off funds for troops involves just too many problems to be an effective method of registering Congressional authorization for a war. Based on my experience in Congress, if separation of powers is to be maintained, and if Congress' power over war is to be maintained with integrity, the President should have to get explicit and intentional Congressional authorization for war.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF JOHN CONYERS, JR.

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss:

John Conyers, Jr., being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at 19970 Canterbury Road, Detroit, Mich. 48221
2. I am now and have been a Member of the House of Representatives of the Congress of the United States from the First District of the State of Michigan since 1965.
3. I have voted for general military appropriations bills during the course of the war in Indo-China. But House passage of general military appropriations bills is not an exercise of Congressmen's Constitutional right to authorize war in Indo-China. Because of the mechanics of the legislative process in the House, military appropriations bills do not represent a decision of at least a majority of those voting to enact the bill, that the U.S. shall fight a war. Because of the mechanics of the legislative process, a Congressman's vote for military appropriations does not necessarily mean that he is for the war and wishes to authorize it, nor does a Congressman's failure to vote for legislation to cut off the use of funds in Indo-China mean that he favors the war and wishes to authorize it. This will all become more clear if I set out the mechanics of the legislative process in the House.
4. In the House, committee chairmen wield an amount of power which is vastly disproportionate to their numbers. They have great if not decisive influence on what provisions are included in legislation before their committees and on what legislation is reported out of their committees. A committee chairman exercises great if not decisive influence on how much floor time shall be

allotted for full House debate on his committee's bills, on whether the bills can be amended on the floor, and on what other rules of procedure will be followed on the floor in regard to his Committee's bills. When the House considers a bill sitting in Committee of the Whole, rather than sitting as the House of Representatives, the Chairman of the committee which reported out the bill manages it on the floor and allots times to speakers of his party. Relatively little time is normally allotted for debate. When a bill is enacted by the House but must go to conference with the Senate, the committee chairman whose committee reported out the bill appoints the House conferees. Normally, he will pick conferees whose views are similar or identical to his own rather than conferees who may happen to disagree with him. This helps him to insure that, as reported back to the full House from the conference, the bill will reflect his views.

5. Because of the seniority system, House Committees are disproportionately chaired by older Congressmen who in the main are from one section of the country.

6. The House Armed Services Committee handles military authorization bills, which authorize the expenditure of funds for military purposes. The House Appropriations Committee handles bills which actually appropriate the money that has previously been authorized in authorization bills. The House Rules Committee, in close collaboration with the chairmen of the Armed Services and Appropriations Committees, often lays down the procedural rules under which bills from the latter two committees will be debated and voted upon on the floor.

7. During the course of the war in Indo-China, the chairmen of the Armed Services Committee have been the late Carl Vinson of Georgia, the late Mendel Rivers of South Carolina and Edward Hebert of Louisiana; the chairman of the Appropriations Committee has been George Mahon of Texas, and the chairmen of the Rules Committee have been Howard Smith of Virginia and William Colmer of Mississippi. All of these chairmen have been hawkish on Vietnam. Further, the membership of the three committees has also been comprised primarily of Congressmen who were quite hawkish on the war.

8. Unless it were to be introduced as an amendment on the floor (which I shall discuss later), a bill to prevent authorized or appropriated funds from being used to fight a war in Indo-China would have gone to the Armed Services or Appropriations Committees. But the hawkish views of the chairmen and members of these committees meant that these committees would not report out such cut-off bills for adoption or rejection by the House. This was true regardless of whether the cut-off bill was separate from any other legislation or was only one provision in a larger military authorization or appropriations bill. Thus, opponents of the war were disabled from working through the committee system.

9. When a military authorization or appropriation bill is reported out from committee and comes before the House for action, the House does not sit as the House of Representatives when debating and amending the bill. Rather, the bill is considered in Committee of the Whole. When the Committee of the Whole is through debating and amending the bill, the House reconvenes as the House of Representatives to vote on the bill. But when the House reconvenes as the House of Representatives, there is no further debate on the bill. Moreover, the House cannot add any amendments which were either rejected in the Committee of the Whole or were not passed upon in the Committee of the Whole. All the House of Representatives can do regarding amendments is to accept or reject amendments that were previously added in Committee of the Whole. Each Congressman who votes

on the previously added amendments and on the final bill has his vote recorded, which means that his constituents, his colleagues, the press and others can tell how he voted.

10. The procedural rules governing the Committee of Whole are materially different from the rules which normally govern at times when the House sits as the House of Representatives. Moreover, the rules governing the Committee of the Whole ensure that, as hammered out in Committee of the Whole, military authorization and appropriations bills do not represent a considered and intentional decision, by at least a majority of those voting to enact the bills, that this nation shall fight a war.

11. In Committee of the Whole, a quorum consists of only 100 members, and a majority of that quorum is but 51 members. Furthermore and very importantly, until the 1971 changes requiring recorded teller votes in Committee of the Whole, there were no recorded votes on amendments to bills. Thus, in regard to military authorization or appropriations bills in Committee of the Whole, there would have been no way to tell whether a Representative voted for an amendment such as one to cut off the use of funds in Indo-China, whether he voted against the amendment, or whether he voted at all. This inability to tell how a Representative voted on an amendment or even whether he voted at all was a factor conducive to not making a conscious, intentional, and deliberate decision on whether the United States should fight a war.

12. When military authorization or appropriation bills were considered in Committee of the Whole, the chairmen, respectively, of the Armed Services and Appropriations Committees would be the managers of the bill and would allot floor debate time to speakers from their political party. The ranking Republican member of these committees would allot floor time to Republican Congressmen. The chairmen of the committees, and the ranking Republicans, were all hawkish on Vietnam. The chairmen would see to it that the particular authorization or appropriation bill under consideration was treated as a unitary "package." Very little or no opportunity was given for the introduction of, debate upon, or voting on amendments to the bill. Time to speak was not democratically apportioned among proponents and opponents. Thus, an amendment to cut off funds for the war would receive nothing but very short procedural shrift, as occurred to other amendments connected with the war. Thus, as hammered out in Committee of the Whole, a military authorization or appropriation bill could not represent a conscious and intentional decision by at least a majority of those voting on the bill that the nation should fight a war in Indo-China.

13. When they are hammered into final shape in Committee of the Whole, military authorization and appropriations bills are then acted upon by the House, which reconvenes as the House of Representatives to take such action. But the House acts upon the bill in the exact form in which it comes out of Committee of the Whole. The House, sitting as the House of Representatives, does not further debate the bill. It cannot add amendments which have been rejected or not passed upon in Committee of the Whole. It votes only on whether to accept amendments that were added in Committee of the Whole and on the final version of the bill.

14. The only exception to the procedure whereby the reconvened House does not merely vote on the bill as it emerged from Committee of the Whole is as follows. It is possible for the reconvened House to enact a motion to conditionally or unconditionally recommit the bill to Committee of the Whole. But the standard House procedure is for the presiding officer to recognize a legislator, whom the officer knows will move to recommit the bill unconditionally. Since an un-

conditional recommitment would open up the bill for wholesale changes, and since there is a fear of wholesale changes, the motion to recommit unconditionally is always voted down. Under the operative rules, the motion to recommit unconditionally precludes any further motion to recommit that might be made. Thus there cannot be a motion to recommit upon the condition, for example, of an amendment to cut off funds for the war. Thus the House must proceed, without debate, to vote on the authorization or appropriations bill in the form in which it emerged from Committee of the Whole.

15. As it emerges from Committee of the Whole, an authorization or appropriations bill represents a "package" or "lumped" bill, which authorizes or appropriates money for a great variety of military needs, many of which needs are essential to national security, such as ships, planes, bases, and military salaries. The costs of the war are not separately earmarked in the bills, so they cannot be separately identified. Moreover, the costs of the war are substantially less than half of the total monies appropriated for national defense, and over 80% of the forces for which money is authorized or appropriated are not in Indo-China.

16. Because Congressmen support the essential defense needs such as ships, planes, and salaries provided for in an authorization or appropriation bill, they have felt that they must vote in favor of the bill even though they oppose the war, oppose the use of part of the bill's monies to finance the war, and would not vote to authorize the war in Indo-China. There is thus no way validly to generalize that the enactment of general military appropriations or authorization bills represents an intentional decision by at least a majority of Representatives voting on the bill that the United States should fight a war in Indo-China.

17. I have pointed out that the House procedure has made it exceptionally difficult to bring up a bill or amendment cutting off money for the war. I have also pointed out that a Congressman's failure to vote for a fund cut-off does not necessarily mean he favors the war or wishes to authorize it. Congressmen have felt strongly that they cannot cut off money to American servicemen who are already in combat in the field and who need the monies for ammunition, food, shelter and other materiel requisite to survival. For these reasons, Congressmen have not voted for a fund cut-off even though they oppose the war and would not vote to authorize it.

18. In addition, some Congressmen who would not vote to authorize the war, will not vote for a fund cut-off because they do not believe that a fund cut-off is a proper way to terminate a war.

19. An appropriations bill enacted without a fund cut-off cannot realistically be equated with a bill which is divorced from appropriations and which independently and intentionally authorizes war. The fact that Congress enacts appropriations bills without cutting off money does not mean Congress would be willing to authorize the war if asked to do so. It would be much harder for the Executive to get Congress to intentionally authorize the war than to get Congress to enact an authorization or appropriations act without a fund cut-off.

There are several reasons for this. If Congressmen were asked to authorize war in Indo-China in a bill independent of appropriations, they would think about this very carefully because there could be no doubt they are clearly being presented with a decision for or against war. Each Congressman would also think about it carefully because his vote would be recorded and would therefore be visible to the press and public, and he would be held accountable for his vote by his constituents. There would doubtlessly have been an earnest debate in Congress and

in the nation at any time whatever since 1960 on whether war should be authorized in Indo-China. Such a Congressional debate would have raised all the questions incident to the desirability of committing this nation to fight a war in Asia, whether American troops should be sent to Indo-China, whether the war was in the national interest, and so forth. At the end of such a debate, if a Congressman had decided to vote against declaring or authorizing war, he would not have had to feel that he was cutting off necessary monies to men in combat.

But the situation is entirely different in regard to military authorization and appropriations bills. These bills are considered under procedures which give short shrift to the possibility of introducing and debating amendments to cut off funds. The bills do not clearly present the decision of whether to fight a war, since they are "packages" which provide money for a tremendous number of defense needs. Congressmen feel that a cut off, even one at a future date, could endanger our men. Votes on amendments in Committee of the Whole have not been recorded in the past, so that a Congressman's constituency is not aware of how he votes on amendments. But even if a Congressman were to announce that he voted to cut off monies, or if otherwise his position became public knowledge, his constituents could easily be angry with him for possibly endangering troops by cutting off monies. In contrast, his constituents might have agreed with him or been sympathetic with him if he refused affirmatively to authorize war on a war bill or resolution that was wholly divorced from cutting off funds.

Finally, even if Congress were to enact a general authorization or appropriations bill containing a provision cutting off monies, the President could veto the bill. It would be virtually impossible to muster the $\frac{2}{3}$ majority necessary in each House of Congress to override the veto, and, because our armed services cannot be left without funds, Congress would have to enact a new bill satisfactory to the President which did not contain a cut-off of monies. Even the threat of a Presidential veto, moreover, acts as a substantial deterrent to Congressmen either to introduce or vote on an amendment to a fund cut-off.

20. In May 1965 and March 1967, the Executive, close to the end of the fiscal years involved, said it had run out of money to use in Vietnam, and Congress enacted supplemental appropriations to be used in Vietnam for the remainder of those fiscal years. However, votes for these supplemental appropriations did not represent a declaration, authorization, or ratification of war. Congressmen felt it necessary to vote for these bills because American servicemen were already in combat in the field and the Executive said the money was immediately necessary to provide them with requisites of survival such as food, ammunition, shelter, etc. In fact, at one point we were told by the President that to deny supplemental appropriations would be to deny support to men who are risking their lives. Thus Congressmen voted for the supplementals even though they did not approve of and did not wish to authorize a large war in Indo-China.

21. The House voted in 1967 and 1971 for extensions of the Selective Service Act. But a vote for extending Selective Service is not a vote to declare, authorize or ratify the war in Indo-China.

This country has had a draft since 1940, in both times of war and times of peace. It needs an army in peacetime, and an army is necessary entirely aside from the fact that troops are fighting in Vietnam. Without a sufficient army, it would be impossible to properly man our bases, installations, etc. Unless and until there is a volunteer army, the army must be raised by conscription. Thus, most Congressmen felt it necessary

to vote to extend Selective Service even though they would not have voted to authorize the war and were opposed to using American troops in the Indo-China war.

Moreover, any attempts to amend the Selective Service extension bills to cut off the use of troops in Indo-China would have run into the same kinds of procedural obstacles that I've discussed earlier in connection with appropriations. Like authorization bills, Selective Service renewal bills go to the Armed Services Committee. Like authorizations and appropriations, Selective Service renewals are considered in Committee of the Whole. Thus, a bill to cut off troops would not have been reported out of committee, and a floor amendment to cut off troops would not have received a fair opportunity to be introduced and considered. The short of it is that the same procedural reasons which demonstrate that the absence of a fund cut off does mean Congress has authorized war.

Finally, as long as the U.S. was fighting a war, most Congressmen, even though they opposed the war, felt the draft was necessary to permit the replacement of troops who had already served in combat.

Thus, for all these reasons, Congressmen felt it necessary to vote for Selective Service extensions though they did not intend and would not have voted to authorize the war.

22. Because of his tremendous access to the mass media, his position as national leader, his position as head of his party, his patronage power, and his fund-raising power, the President has tremendous political power and great advantages in the legislative process. With this power and these advantages, he would be able to get Congress to intentionally authorize war if Congress really thinks we should fight. But as I've said before, it would be harder for him to get Congress to intentionally authorize war than for him to get Congress to pass appropriations and Selective Service bills without a cut-off of funds or troops. Cutting off funds or troops involves just too many problems to be an effective method of registering Congressional authorization for a war. Based on my experience in Congress, if separation of powers is to be maintained, and if Congress' power over war is to be maintained with integrity, the President should have to get explicit and intentional Congressional authorization for war.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF DONALD M. FRASER

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss:

Donald M. Fraser, being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at 1253 4th Street S.W., Washington, D.C.

2. I am now and have been a Member of the House of Representatives of the Congress of the United States from the 5th District of the State of Minnesota since 1963.

3. Passage by the House of Representatives of general military appropriations bills does not constitute a declaration, authorization, or ratification of the war in Indo-China.

As voted upon by the House, a general military authorization or appropriations bill represents a "package" or "lumped" bill which authorizes or appropriates money for a great variety of military needs, many of which needs are essential to national security, such as ships, planes, bases, and military salaries.

Because Congressmen support the essential defense needs such as ships, planes, and salaries provided for in an authorization or appropriation bill, many have felt that they must vote in favor of the bill even though they oppose the war, oppose the use of part

of the bill's monies to finance the war, and would not vote to authorize the war in Indo-China.

4. That Congress has not voted for cutting off funds for Indo-China does not mean that Congressmen favor the war or wish to authorize it. Many Congressmen have felt strongly that they cannot cut off money to American servicemen who are already in combat in the field and who need the monies for ammunition, food, shelter and other materiel requisite to survival.

For these reasons, the enactment of a military authorization or appropriations bill without a fund cut-off does not necessarily represent a conscious and intentional House decision that the nation should fight a war in Indo-China.

5. An appropriations bill enacted without a fund cut-off cannot realistically be equated with a bill which is divorced from appropriations and which independently and intentionally authorizes war. At the present time it would be much harder for the Executive to get Congress to intentionally authorize the war than to get Congress to enact an authorization or appropriations act without a fund cut-off.

6. Supplemental appropriations for Vietnam, enacted during May 1965 and March 1967 just before the end of those fiscal years, did not constitute a declaration, authorization or ratification of war. Though many Congressmen did not approve of and did not wish to authorize a large war in Indo-China, most of these felt it necessary to vote for these bills because American servicemen were already in combat in the field and the Executive said the money was immediately necessary to provide them with requisites of survival such as food, ammunition, shelter, etc.

7. Enactment of Selective Service extensions in 1967 and 1971 did not constitute a declaration, authorization or ratification of war in Indo-China. This country has had a draft since 1940, in both times of war and times of peace. It needs an army in peacetime, and an army is necessary entirely aside from the facts that troops are fighting in Vietnam. Without a sufficient army, it would be impossible to properly man our bases, installations, etc. Unless and until there is a volunteer army, the army must be raised by conscription. Thus, most Congressmen felt it necessary to vote to extend Selective Service even though they would not have voted to authorize the war and were opposed to using American troops in the Indo-China war.

8. The Tonkin Gulf Resolution was not intended as an authorization for a large, long war in Indo-China. It was intended solely to support the President's action in repulsing an alleged attack on American ships in the Gulf of Tonkin, and to deter further such attacks. Moreover, the Executive secured passage of the Resolution solely on such grounds.

9. The defendants have made no statement indicating a time when the present war in Indo-China will end, but, on the contrary, specifically have refused to state any date when the war will end. Although the defendants announced in 1969 that American troops would be withdrawn on a gradual basis, there has been geographical escalation and extension of the war into the independent nations of Cambodia and Laos, and massive aerial bombardment of North Vietnam, Laos and Cambodia.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF EDWARD R. ROYBAL

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss:

Edward R. Roybal, being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at ———.

2. I am now and have been a Member of the House of Representatives of the Congress of the United States from the 30th District of the State of California since 1963.

3. I have voted for general military appropriations bills during the course of the war in Indo-China. In voting for such bills, I did not intend to declare, authorize or ratify the war in Indo-China. House enactment of military appropriations bills does not represent a decision that the U.S. shall fight a war. A Congressman's vote for military appropriations does not necessarily mean that he is for the war and wishes to authorize it, nor does a Congressman's failure to vote for legislation to cut off the use of funds in Indo-China mean that he favors the war and wishes to authorize it.

4. As voted upon by the House, a general military authorization or appropriations bill represents a "package" or "lumped" bill which authorizes or appropriates money for a great variety of military needs, many of which needs are essential to national security, such as ships, planes, bases, and military salaries. The costs of the war are not separately earmarked in the bills, so they cannot be separately identified. Moreover, the costs of the war are substantially less than half of the total monies appropriated for national defense, and over 80% of the forces for which money is authorized or appropriated are not in Indo-China.

Because Congressmen support the essential defense needs such as ships, planes, and salaries provided for in an authorization or appropriation bill, they have felt that they must vote in favor of the bill even though they oppose the war, oppose the use of part of the bill's monies to finance the war, and would not vote to authorize the war in Indo-China. There is thus no way validly to generalize that the enactment of general military appropriations or authorization bills represents an intentional decision by the House that the United States should fight a war in Indo-China.

5. That Congress has not voted for cutting off funds for Indo-China does not mean that Congress favor the war or wish to authorize it. Congressmen have felt strongly that they cannot cut off money to American servicemen who are already in combat in the field and who need the monies for ammunition, food, shelter and other materiel requisite to survival. Moreover, House procedure has made it exceptionally difficult to bring up a bill or amendment cutting off funds. Committee chairmen would see to it that, when considered on the floor, a military authorization or appropriations bill was treated as a unitary "package." Very little or no opportunity was given for the introduction of, debate upon, or voting on amendments to the bill. Time to speak was not democratically apportioned among proponents and opponents. Thus, an amendment to cut off funds for the war would receive nothing but very short procedural shrift, as occurred to other amendments connected with the war. For the reasons, then, the enactment of a military authorization or appropriations bill without a fund cut-off could not represent a conscious and intentional House decision that the nation should fight a war in Indo-China.

6. An appropriations bill enacted without a fund cut-off cannot realistically be equated with a bill which is divorced from appropriations and which independently and intentionally authorizes war. The fact that Congress enacts appropriations bills without cutting off money does not mean Congress would be willing to authorize the war if asked to do so. It would be much harder for the Executive to get Congress to intentionally authorize the war than to get Congress to enact an authorization or appropriations act without a fund cut-off.

There are several reasons for this. If Congressmen were asked to authorize war in

Indo-China in a bill independent of appropriations, they would think about this very carefully because there could be no doubt they are clearly being presented with a decision for or against war. Each Congressman would also think about it carefully because his vote would be recorded and would therefore be visible to the press and public, and he would be held accountable for his vote by his constituents. There would doubtlessly have been an earnest debate in Congress and in the nation at any time whatever since 1960 on whether war should be authorized in Indo-China. Such a Congressional debate would have raised all the questions incident to the desirability of committing this nation to fight a war in Asia, whether American troops should be sent to Indo-China, whether the war was in the national interest, and so forth. At the end of such a debate, if a Congressman had decided to vote against declaring or authorizing war, he would not have had to feel that he was cutting off necessary monies to men in combat.

But the situation is entirely different in regard to military authorization and appropriations bills. These bills are considered under procedures which give short shrift to the possibility of introducing and debating amendments to cut off funds. The bills do not clearly present the decision of whether to fight a war, since they are "packages" which provide money for a tremendous number of defense needs. Congressmen feel that a cut off, even one at a future date, could endanger our men. Votes on amendments in Committee of the Whole have not been recorded in the past, so that a Congressman's constituency is not aware of how he votes on amendments. But even if a Congressman were to announce that he voted to cut off monies, or if otherwise his position became public knowledge, his constituents could easily be angry with him for possibly endangering troops by cutting off monies. In contrast, his constituents might have agreed with him or been sympathetic with him if he refused affirmatively to authorize war on a war bill or resolution that was wholly divorced from cutting off funds.

Finally, even if Congress were to enact a general authorization or appropriations bill containing a provision cutting off monies, the President could veto the bill. If there were not a 2/3 majority necessary in each House of Congress to override the veto, then, because our armed services cannot be left without funds, Congress would have to enact a new bill satisfactory to the President which did not contain a cut-off of monies. The threat of a Presidential veto thus acts as a substantial deterrent to Congressmen either to introduce or vote on an amendment for a fund cut-off.

7. In May 1965 and March 1967, the Executive, close to the end of the fiscal years involved, said it had run out of money to use in Vietnam, and Congress enacted supplemental appropriations to be used in Vietnam for the remainder of those fiscal years. I voted for those supplementals. However, votes for these supplemental appropriations did not represent a declaration, authorization, or ratification of war. Congressmen felt it necessary to vote for these bills because American servicemen were already in combat in the field and the Executive said the money was immediately necessary to provide them with requisites of survival such as food, ammunition, shelter, etc. In fact, at one point we were told by the President that to deny supplemental appropriations would be to deny support to men who are risking their lives. Thus, Congressmen voted for the supplementals even though they did not approve of and did not wish to authorize a large war in Indo-China.

8. The House voted in 1967 and 1971, for extensions of the Selective Service Act. But a vote for extending Selective Service is not a vote to declare, authorize or ratify the war in Indo-China.

This country has had a draft since 1940, in both times of war and times of peace. It needs an army in peacetime, and an army is necessary entirely aside from the facts that troops are fighting in Vietnam. Without a sufficient army, it would be impossible to properly man our bases, installations, etc. Unless and until there is a volunteer army, the army must be raised by conscription. Thus, most Congressmen felt it necessary to vote to extend Selective Service even though they would not have voted to authorize the war and were opposed to using American troops in the Indo-China war.

Moreover, any attempts to amend the Selective Service extension bills to cut off the use of troops in Indo-China would have run into procedural obstacles. A bill to cut off troops would not have been reported out of committee, and due to various obstacles which arise from rules under which bills are debated and voted upon on the floor, a floor amendment to cut off troops would not have received a fair opportunity to be introduced, debated and considered.

Finally, as long as the U.S. was fighting a war, most Congressmen, even though they opposed the war, felt the draft was necessary to permit the replacement of troops who had already served in combat.

Thus, for all these reasons, Congressmen felt it necessary to vote for Selective Service extensions though they did not intend to authorize the war and would not have voted to authorize the war.

9. I voted for the Tonkin Gulf Resolution. It was not intended as an authorization for a large, long war in Indo-China. It was passed in response to the specific fact of an alleged attack on American ships in the Tonkin Gulf. It was intended solely to support the President's action in repulsing that alleged attack and to deter further such attacks. It was not intended as Congressional authorization for a major land, sea and air war in Asia.

10. The war in Indo-China is a major one. It is the longest war in American history, the second most costly in terms of dollars, and one of the most costly in terms of American lives wounded and lost. The President of the United States has on numerous occasions referred to the "war" in Indo-China and it is common knowledge that a "war" in the constitutional meaning of that term is being waged in Indo-China.

The defendants have made no statement indicating a time when the present war in Indo-China will end, but, on the contrary, specifically have refused to state any date when the war will end. There is, therefore, the threat that the war will continue. Although the defendants announced in 1969 that American troops would be withdrawn on a gradual basis, there has been geographical escalation and extension of the war into the independent nations of Cambodia and Laos, and massive aerial bombardment of North Vietnam, Laos and Cambodia.

11. I have not and would not introduce any bill or proposed resolution in Congress declaring or authorizing war in Indo-China, as I am opposed to the war in Indo-China and thus could not be a sponsor of any such bill or resolution.

12. There has been no bill or resolution in Congress declaring or authorizing the war in Indo-China. Thus I have not voted in favor of any such bill or resolution, and I do not intend to vote in favor of any such bill or resolution in the foreseeable future. I would actively oppose any such proposed bill or resolution, by vote and by public debate.

13. Each day that Congress is in session I refuse to declare or authorize war in Indo-China. I do this by not voting for any proposed bill or resolution that could be introduced by any other member of Congress which would declare or authorize the war in Indo-China.

14. Because the Executive is fighting a war without Congress declaring or authorizing war, it is defeating the right and duty, pos-

sessed by myself and each other federal legislator under Article I, Section 8, Clause 11 of the Constitution, to make the decision whether this nation shall fight a war, and it is defeating the efficacy of the continuing refusal of myself and other legislators to vote in favor of any bill or resolution authorizing war in Indo-China.

15. By prosecuting a war in Indo-China that has not been declared or authorized by Congress under Article I, Section 8, Clause 11, the Executive is defeating the principle of separation of powers established by the Constitution, is destroying a fundamental power of the United States Congress, and is thus impairing and limiting my powers and responsibility as a duly elected Member of Congress.

16. For redressing the impairment of my powers and responsibilities under Article I Section 8 Clause 11, I have no legislative remedy in Congress which is equivalent to the Constitutional power given to me under Clause 11. If I were to introduce a bill to terminate the war, or a bill to cut off funds for the war, and Congress were to pass such a bill, the President of the United States could veto it, thus necessitating a two-thirds vote in each house of Congress to override the President's veto. The necessity for a two-thirds vote is substantially different from the need for only a majority to defeat any declaration or authorization of war under Article I Section 8 Clause 11. My own vote could be decisive in providing an absolute majority in the House of Representatives for defeating a bill or resolution declaring or authorizing war. But though my vote could provide an absolute majority against declaring or authorizing war, such a majority would be insufficient, and my vote would be rendered useless and of no value, to override a presidential veto of a bill terminating or cutting off funds for the war where an absolute majority is short of the requisite two-thirds majority required to override a veto.

17. Because of his tremendous access to the mass media, his position as national leader, his position as head of his party, his patronage power, and his fund-raising power, the President has tremendous political power and great advantages in the legislative process. With this power and these advantages, he would be able to get Congress to intentionally authorize war if Congress really thinks we should fight. But as I've said before, it would be harder for him to get Congress to intentionally authorize war than for him to get Congress to pass appropriations and Selective Service bills without a cut-off of funds or troops. Cutting off funds or troops involves just too many problems to be an effective method of registering Congressional authorization for a war. Based on my experience in Congress, if separation of powers is to be maintained, and if Congress' power over war is to be maintained with integrity, the President should have to get explicit and intentional Congressional authorization for war.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF DON EDWARDS

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia ss:

Don Edwards, being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at 2700 Virginia Avenue, NW, Washington, D.C.

2. I am now and have been a Member of the House of Representatives of the Congress of the United States from the Ninth District of the State of California since 1963.

3. Although I have voted in the Congress for general military appropriation bills, I have never intended thereby to exercise my constitutional right to cast a vote on the

decision whether Congress should declare, authorize, or ratify the war in Indo-China.

4. The appropriations process is fundamentally different from the procedure by which Congress would declare or authorize a war. The most fundamental element missing from the appropriations process is public visibility and public debate, which in turn would have a profound effect upon the way in which Members of Congress would vote. Any proposed bill or resolution to declare or authorize war would engender a national debate which would in turn influence the way in which the individual members of Congress would vote on the bill or resolution. Moreover, any such proposed bill or resolution would require each member of Congress to stand up and be counted one way or the other on the specific issue of the war in Indo-China. In contrast, the appropriations process presents to members of Congress as well as to the public at large a lump-sum defense bill, containing monies necessary for the national defense as well as monies, not specifically identified, to enable the prosecution of the war in Vietnam. No national debate on the defense appropriations as a whole is engendered.

5. In addition, until 1971 all appropriations votes were not record votes, and thus members of the House of Representatives did not need to stand up and be counted on any particular amendments that might have been introduced that would delete funds from Vietnam. Thus the democratic pressures that would normally operate upon members of Congress with respect to a specific and discrete bill or resolution declaring or authorizing war are and have been absent from military and defense appropriations bills.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF WILLIAM L. CLAY

The Honorable Parren J. Mitchell, et al., Plaintiffs v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss:

William L. Clay, being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at 5146a Minerva Avenue, St. Louis, Missouri.

2. I am now and have been a Member of the House of Representatives of the Congress of the United States from the First District of the State of Missouri since 1969.

3. In voting for general military appropriation bills, Congressmen did not intend to declare, authorize or ratify the war in Indo-China. House enactment of military appropriations bills does not represent a decision that the U.S. shall fight a war. A Congressman's vote for military appropriations does not necessarily mean that he is for the war and wishes to authorize it, nor does a Congressman's failure to vote for legislation to cut off the use of the funds in Indo-China mean that he favors the war and wishes to authorize it.

4. As voted upon by the House, a general military authorization or appropriations bill represents a "package" or "lumped" bill which authorizes or appropriates money for a great variety of military needs, many of which needs are essential to national security, such as ships, planes, bases, and military salaries. The costs of the war are not separately earmarked in the bills, so they cannot be separately identified. Moreover, the costs of the war are substantially less than half of the total monies appropriated for national defense, and over 80% of the forces for which money is authorized or appropriated are not in Indo-China.

Because Congressmen support the essential defense needs such as ships, planes, and salaries provided for in an authorization or appropriation bill, they have felt that they must vote in favor of the bill even though they oppose the war, oppose the use of part of the bill's monies to finance the war, and

would not vote to authorize the war in Indo-China. There is thus no way validity to generalize that the enactment of general military appropriations or authorization bills represents an intentional decision by the House that the United States should fight a war in Indo-China.

5. That Congress has not voted for cutting off funds for Indo-China does not mean that Congressmen favor the war or wish to authorize it. Congressmen have felt strongly that they cannot cut off money to American servicemen who are already in combat in the field and who need the monies for ammunition, food, shelter and other material requisite to survival. Moreover, House procedure has made it exceptionally difficult to bring up a bill or amendment cutting off funds. Committee chairmen would see to it that, when considered on the floor, a military authorization or appropriations bill was treated as a unitary "package." Very little or no opportunity was given for the introduction of, debate upon, or voting on amendments to the bill. Time to speak was not democratically apportioned among proponents and opponents. Thus, an amendment to cut off funds for the war would receive nothing but very short procedural shrift, as occurred to other amendments connected with the war. For these reasons, then, the enactment of a military authorization or appropriations bill without a fund cut-off could not represent a conscious and intentional House decision that the nation should fight a war in Indo-China.

6. An appropriations bill enacted without a fund cut-off cannot realistically be equated with a bill which is divorced from appropriations and which independently and intentionally authorizes war. The fact that Congress enacts appropriations bills without cutting off money does not mean Congress would be willing to authorize the war is asked to do so. It would be much harder for the Executive to get Congress to intentionally authorize the war than to get Congress to enact an authorization or appropriations act without a fund cut-off.

There are several reasons for this. If Congressmen were asked to authorize war in Indo-China in a bill independent of appropriations, they would think about this very carefully because there could be no doubt they are clearly being presented with a decision for or against war. Each Congressman would also think about it carefully because his vote would be recorded and would therefore be visible to the press and public, and he would be held accountable for his vote by his constituents. There would doubtlessly have been an earnest debate in Congress and in the nation at any time whatever since 1960 on whether war should be authorized in Indo-China. Such a Congressional debate would have raised all the questions incident to the desirability of committing this nation to fight a war in Asia, whether American troops should be sent to Indo-China, whether the war was in the national interest, and so forth. At the end of such debate, if a Congressman had decided to vote against declaring or authorizing war, he would not have had to feel that he was cutting off necessary moneys to men in combat.

But the situation is entirely different in regard to military authorization and appropriations bills. These bills are considered under procedures which give short shrift to the possibility of introducing and debating amendments to cut off funds. The bills do not clearly present the decision of whether to fight a war, since they are "packages" which provide money for a tremendous number of defense needs. Congressmen feel that a cutoff, even one at a future date, could endanger our men. Votes on amendments in Committee of the Whole have not been recorded in the past, so that a Congressman's constituency is not aware of how he votes on amendments. But even if a Congressman were to announce that he voted to cut off

moneys, or if otherwise his position became public knowledge, his constituents could easily be angry with him for possibly endangering troops by cutting off moneys. In contrast, his constituents might have agreed with him or been sympathetic with him if he refused affirmatively to authorize war on a war bill or resolution that was wholly divorced from cutting off funds.

Finally, even if Congress were to enact a general authorization or appropriations bill containing a provision cutting off moneys, the President could veto the bill. If there were not a majority necessary in each House of Congress to override the veto, then, because our armed services cannot be left without funds, Congress would have to enact a new bill satisfactory to the President which did not contain a cutoff of moneys. The threat of Presidential veto thus acts as a substantial deterrent to Congressmen either to introduce or vote on an amendment for a fund cutoff.

7. Congress voted in 1967 and 1971 for extensions of the Selective Service Act. But a vote for extending Selective Service is not a vote to declare, authorize or ratify the war in Indo-China.

This country has had a draft since 1940, in both times of war and times of peace. It needs an army in peacetime, and an army is necessary entirely aside from the facts that troops are fighting in Vietnam. Without a sufficient army, it would be impossible to properly man our bases, installations, etc. Unless and until there is a volunteer army, the army must be raised by conscription. Thus, most Congressmen felt it necessary to vote to extend Selective Service even though they would not have voted to authorize the war and were opposed to using American troops in the Indo-China war.

Moreover, any attempts to amend the Selective Service extension bills to cut off the use of troops in Indo-China would have run into procedural obstacles. A bill to cut off troops would not have been reported out of committee, and due to various obstacles which arise from rules under which bills are debated and voted upon on the floor, a floor amendment to cut off troops would not have received a fair opportunity to be introduced, debated and considered.

Finally, as long as the U.S. was fighting a war, most Congressmen, even though they opposed the war, felt the draft was necessary to permit the replacement of troops who had already served in combat.

Thus, for all these reasons, Congressmen felt it necessary to vote for Selective Service extensions though they did not intend to authorize the war and would not have voted to authorize the war.

8. The war in Indo-China is a major one. It is the longest war in American history, the second most costly in terms of dollars, and one of the most costly in terms of American lives wounded and lost. The President of the United States has on numerous occasions referred to the "war" in Indo-China and it is common knowledge that a "war" in the constitutional meaning of that term is being waged in Indo-China.

The defendants have made no statements indicating a time when the present war in Indo-China will end, but, on the contrary, specifically have refused to state any date when the war will end. There is, therefore, the threat that the war will continue. Although the defendants announced in 1969 that American troops would be withdrawn on a gradual basis, there has been geographical escalation and extension of the war into the independent nations of Cambodia and Laos, and massive aerial bombardment of North Vietnam, Laos and Cambodia.

9. I have not and would not introduce any bill or proposed resolution in Congress declaring or authorizing war in Indo-China, as I am opposed to the war in Indo-China and

thus could not be a sponsor of any such bill or resolution.

10. There has been no bill or resolution in Congress declaring or authorizing the war in Indo-China. Thus I have not voted in favor of any such bill or resolution, and I do not intend to vote in favor of any such bill or resolution in the foreseeable future. I would actively oppose any such proposed bill or resolution, by vote and by public debate.

11. Each day that Congress is in session I refuse to declare or authorize war in Indo-China. I do this by not voting for any proposed bill or resolution that could be introduced by any other member of Congress which would declare or authorize the war in Indo-China.

12. Because the Executive is fighting a war without Congress declaring or authorizing war, it is defeating the right and duty, possessed by myself and each other federal legislator under Article I Section 8 Clause 11 of the Constitution, to make the decision whether this nation shall fight a war, and it is defeating the efficacy of the continuing refusal of myself and other legislators to vote in favor of any bill or resolution authorizing war in Indo-China.

13. By prosecuting a war in Indo-China that has not been declared or authorized by Congress under Article I Section 8 Clause 11, the Executive is defeating the principle of separation of powers established by the Constitution, is destroying a fundamental power of the United States Congress, and is thus impairing and limiting my powers and responsibility as a duly elected Member of Congress.

14. For redressing the impairment of my powers and responsibilities under Article I Section 8 Clause 11, I have no legislative remedy in Congress which is equivalent to the Constitutional power given to me under Clause 11. If I were to introduce a bill to terminate the war, or a bill to cut off funds for the war, and Congress were to pass such a bill, the President of the United States could veto it, thus necessitating a two-thirds vote in each House of Congress to override the President's veto. The necessity for a two-thirds vote is substantially different from the need for only a majority to defeat any declaration or authorization of war under Article I Section 8 Clause 11. My own vote could be decisive in providing an absolute majority in the House of Representatives for defeating a bill or resolution declaring or authorizing war. But though my vote could provide an absolute majority against declaring or authorizing war, such a majority would be insufficient, and my vote would be rendered useless and of no value, to override a presidential veto of a bill terminating or cutting off funds for the war where an absolute majority is short of the requisite two-thirds majority required to override a veto.

15. Because of his tremendous access to the mass media, his position as national leader, his position as head of his party, his patronage power, and his fund-raising power, the President has tremendous political power and great advantages in the legislative process. With this power and these advantages, he would be able to get Congress to intentionally authorize war if Congress really thinks we should fight. But as I've said before, it would be harder for him to get Congress to intentionally authorize war than for him to get Congress to pass appropriations and Selective Service bills without a cut-off of funds or troops. Cutting off funds or troops involves just too many problems to be an effective method of registering Congressional authorization for a war. Based on my experience in Congress, if separation of powers is to be maintained, and if Congress' power over war is to be maintained with integrity, the President should have to get explicit, and intentional Congressional authorization for war.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF PARREN J. MITCHELL

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss:

Parren J. Mitchell, being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at 951 Brooks Lane, Baltimore, Maryland.

2. I am a Member of the House of Representatives of the Congress of the United States, from the Seventh District of Maryland. My term of office began in January, 1971.

3. I have not voted on any military authorization or military appropriation bills.

4. I have voted against extending the Selective Service Act.

5. There is at the present time a major war going on in Indo-China. It is the longest war in American history, the second most costly in terms of dollars, and one of the most costly in terms of American lives wounded and lost. The President of the United States has on numerous occasions referred to the war in Indo-China and it is common knowledge that a war in the Constitutional meaning of that term is being waged in Indo-China.

6. The defendants have made no statement indicating a time when the present war in Indo-China will end, but, on the contrary, specifically have refused to state any date when the war will end. There is, therefore, the threat that the war will continue. Although the defendants announced in 1969 that American troops would be withdrawn on a gradual basis, there has been geographical escalation and extension of the war into the independent nations of Cambodia and Laos, and massive aerial bombardment of North Vietnam.

7. I have not and would not introduce any bill or proposed resolution in Congress declaring or authorizing war in Indo-China, as I am opposed to the war in Indo-China and thus could not be a sponsor of any such bill or resolution.

8. There has been no bill or resolution in Congress declaring or authorizing the war in Indo-China. Thus I have not voted in favor of any such bill or resolution, and I do not intend to vote in favor of any such bill or resolution in the foreseeable future. I would actively oppose any such proposed bill or resolution, by vote and by public debate.

9. Each day that Congress is in session I refuse to declare or authorize war in Indo-China. I do this by not voting for any proposed bill or resolution that could be introduced by any other member of Congress which would declare or authorize the war in Indo-China.

10. Because the Executive is fighting a war without Congress declaring or authorizing war, it is defeating the right and duty, possessed by myself and each other federal legislator under Article I Section 8 Clause 11 of the Constitution, to make the decision whether this nation shall fight a war, and it is defeating the efficacy of the continuing refusal of myself and other legislators to vote in favor of any bill or resolution authorizing war in Indo-China.

11. By prosecuting a war in Indo-China that has not been declared or authorized by Congress under Article I Section 8 Clause 11, the Executive is defeating the principle of separation of powers established by the Constitution, is destroying a fundamental power of the United States Congress, and is thus impairing and limiting my powers and responsibility as a duly elected Member of Congress.

12. For redressing the impairment of my powers and responsibilities under Article I

Section 8 Clause 11, I have no legislative remedy in Congress which is equivalent to the Constitutional power given to me under Clause 11. If I were to introduce a bill to eliminate the war, or a bill to cut off funds for the war, and Congress were to pass such a bill, the President of the United States could veto it, thus necessitating a two-thirds vote in each house of Congress to override the President's veto. The necessity for a two-thirds vote is substantially different from the need for only a majority to defeat any declaration or authorization of war under Article I Section 8 Clause 11. My own vote could be decisive in providing an absolute majority in the House of Representatives for defeating a bill or resolution declaring or authorizing war. But though my vote could provide an absolute majority against declaring or authorizing war, such a majority would be insufficient, and my vote would be rendered useless and of no value, to override a presidential veto of a bill terminating or cutting off funds for the war where an absolute majority is short of the requisite two-thirds majority required to override a veto.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF SHIRLEY CHISHOLM

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss:

The Honorable Shirley Chisholm, being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at 1028 St. Johns Place, Brooklyn, New York.

2. I am now and have been a Member of the House of Representatives of the Congress of the United States from the 12th District of the State of New York since 1968.

3. I have not voted for any general military appropriations bills during the course of the war in Indo-China. House enactment of military appropriations bills does not represent a decision that the U.S. shall fight a war. A Congressman's vote for military appropriations does not necessarily mean that he is for the war and wishes to authorize it, nor does a Congressman's failure to vote for legislation to cut off the use of funds in Indo-China mean that he favors the war and wishes to authorize it.

4. As voted upon by the House, a general military authorization or appropriations bill represents a "package" or "lumped" bill which authorizes or appropriates money for a great variety of military needs, many of which needs are essential to national security, such as ships, planes, bases and military salaries. The costs of the war are not separately earmarked in the bills, so they cannot be separately identified. Moreover, the costs of the war are substantially less than half of the total monies appropriated for national defense, and over 80% of the forces for which money is authorized or appropriated are not in Indo-China.

Because Congressmen support the essential defense needs such as ships, planes and salaries provided for in an authorization or appropriation bill, they have felt that they must vote in favor of the bill even though they oppose the war, oppose the use of part of the bill's monies to finance the war, and would not vote to authorize the war in Indo-China. There is thus no way validly to generalize that the enactment of general military appropriations or authorization bills represents an intentional decision by the House that the United States should fight a war in Indo-China.

5. That Congress has not voted for cutting off funds for Indo-China does not mean that Congressmen favor the war or wish to authorize it. Congressmen have felt strongly that they cannot cut off money to American servicemen who are already in combat in the field and who need the monies for ammuni-

tion, food, shelter and other materiel requisite to survival. Moreover, House procedure has made it exceptionally difficult to bring up a bill or amendment cutting off funds. Committee chairmen would see to it that, when considered on the floor, a military authorization or appropriations bill was treated as a unitary "package." Very little or no opportunity was given for the introduction of debate upon, or voting on amendments to the bill. Time to speak was not democratically apportioned among proponents and opponents. Thus, an amendment to cut off funds for the war would receive nothing but very short procedural shrift, as occurred to other amendments connected with the war. For these reasons, then, the enactment of a military authorization or appropriations bill without a fund cut-off could not represent a conscious and intentional House decision that the Nation should fight a war in Indo-China.

6. An appropriations bill enacted without a fund cut-off cannot realistically be equated with a bill which is divorced from appropriations and which independently and intentionally authorizes war. The fact that Congress enacts appropriations bills without cutting off money does not mean Congress would be willing to authorize the war if asked to do so. It would be much harder for the Executive to get Congress to intentionally authorize the war than to get Congress to enact authorization or appropriations act without a fund cut-off.

There are several reasons for this. If Congressmen were asked to authorize war in Indo-China in a bill independent of appropriations, they would think about this very carefully because there could be no doubt they are clearly being presented with a decision for or against war. Each Congressman would also think about it carefully because his vote would be recorded and would therefore be visible to the press and public, and he would be held accountable for his vote by his constituents. There would doubtlessly have been an earnest debate in Congress and in the nation at any time whatever since 1960 on whether war should be authorized in Indo-China. Such a Congressional debate would have raised all the questions incident to the desirability of committing this nation to fight a war in Asia, whether American troops should be sent to Indo-China, whether the war was in the national interest, and so forth. At the end of such a debate, if a Congressman had decided to vote against declaring or authorizing war, he would not have had to feel that he was cutting off necessary monies to men in combat.

But the situation is entirely different in regard to military authorization and appropriation bills. These bills are considered under procedures which give short shrifts to the possibility of introducing and debating amendments to cut off funds. The bills do not clearly present the decision of whether to fight a war, since they are "packages" which provide money for a tremendous number of defense needs. Congressmen feel that a cut off, even one at a future date, could endanger our men. Votes on amendments in Committee of the Whole have not been recorded in the past, so that a Congressman's constituency is not aware of how he votes on amendments. But even if a Congressman were to announce that he voted to cut off monies, or if otherwise his position became public knowledge, his constituents could easily be angry with him for possibly endangering troops by cutting off monies. In contrast, his constituents might have agreed with him or been sympathetic with him if he refused affirmatively to authorize war on a war bill or resolution that was wholly divorced from cutting off funds.

Finally, even if Congress were to enact a general authorization or appropriations bill containing a provision cutting off monies, the President could veto the bill. If there

were not a $\frac{2}{3}$ majority necessary in each House of Congress to override the veto, then, because our armed services cannot be left without funds, Congress would have to enact a new bill satisfactory to the President which did not contain a cut off of monies. The threat of a Presidential veto thus acts as a substantial deterrent to Congressmen either to introduce or vote on an amendment for a fund cut-off.

7. In May 1965 and March 1967, the Executive, close to the end of the fiscal years involved, said it had run out of money to use in Vietnam, and Congress enacted supplemental appropriations to be used in Vietnam for the remainder of those fiscal years. However, votes for these supplemental appropriations did not represent a declaration, authorization, or ratification of war. Congressmen felt it necessary to vote for these bills because American servicemen were already in combat in the field and the Executive said the money was immediately necessary to provide them with requisites of survival such as food, ammunition, shelter, etc. In fact, at one point Congressmen were told by the President that to deny supplemental appropriations would be to deny support to men who are risking their lives. Thus, Congressman voted for the supplementals even though they did not approve of and did not wish to authorize a large war in Indo-China.

8. The House voted in 1967 and 1971 for extensions of the Selective Service Act. But a vote for extending Selective Service is not a vote to declare, authorize or ratify the war in Indo-China.

This country has had a draft since 1940, in both times of war and times of peace. It needs an army in peacetime, and an army is necessary entirely aside from the facts that troops are fighting in Vietnam. Without a sufficient army, it would be impossible to properly man our bases, installations, etc. Unless and until there is a volunteer army, the army must be raised by conscription. Thus, most Congressmen felt it necessary to vote to extend Selective Service even though they would not have voted to authorize the war and were opposed to using American troops in the Indo-China war.

Moreover, any attempts to amend the Selective Service extension bills to cut off the use of troops in Indo-China would have run into procedural obstacles. A bill to cut off troops would not have been reported out of Committee, and due to various obstacles which arise from rules under which bills are debated and voted upon on the floor, a floor amendment to cut off troops would not have received a fair opportunity to be introduced, debated and considered.

Finally, as long as the U.S. was fighting a war, most Congressmen, even though they opposed the war, felt the draft was necessary to permit the replacement of troops who had already served in combat.

Thus, for all these reasons, Congressmen felt it necessary to vote for Selective Service extensions though they did not intend to authorize the war and would not have voted to authorize the war.

9. The Tonkin Gulf Resolution was not intended as an authorization for a large, long war in Indo-China. It was passed in response to the specific fact of an alleged attack on American ships in the Tonkin Gulf. It was intended solely to support the President's action in repulsing that alleged attack and to deter further such attacks. It was not intended as Congressional authorization for a major land, sea and air war in Asia. Moreover, the Executive secured passage of the Resolution through deceiving Congress by untrue statements.

10. The war in Indo-China is a major one. It is the longest war in American history, the second most costly in terms of dollars, and one of the most costly in terms of American lives wounded and lost. The President of the United States has on numerous occasions

referred to the "war" in Indo-China and it is common knowledge that a "war" in the constitutional meaning of that term is being waged in Indo-China.

The defendants have made no statement indicating a time when the present war in Indo-China will end, but, on the contrary, specifically have refused to state any date when the war will end. There is, therefore, the threat that the war will continue. Although the defendants announced in 1969 that American troops would be withdrawn on a gradual basis, there has been geographical escalation and extension of the war into the independent nations of Cambodia and Laos, and massive aerial bombardment of North Vietnam, Laos and Cambodia.

11. I have not and would not introduce any bill or proposed resolution in Congress declaring or authorizing war in Indo-China, as I am opposed to the war in Indo-China and thus could not be a sponsor of any such bill or resolution.

12. There has been no bill or resolution in Congress declaring or authorizing the war in Indo-China. Thus I have not voted in favor of any such bill or resolution, and I do not intend to vote in favor of any such bill or resolution in the foreseeable future. I would actively oppose any such proposed bill or resolution, by vote and by public debate.

13. Each day that Congress is in session I refuse to declare or authorize war in Indo-China. I do this by not voting for any proposed bill or resolution that could be introduced by any other Member of Congress which would declare or authorize war in Indo-China.

14. Because the Executive is fighting a war without Congress declaring or authorizing war, it is defeating the right and duty, possessed by myself and each other federal legislator under Article I Section 8 Clause 11 of the Constitution, to make the decision whether this nation shall fight a war, and it is defeating the efficacy of the continuing refusal of myself and other legislators to vote in favor of any bill or resolution authorizing war in Indo-China.

15. By prosecuting a war in Indo-China that has not been declared or authorized by Congress under Article I Section 8 Clause 11, the Executive is defeating the principle of separation of powers established by the Constitution, is destroying a fundamental power of the United States Congress, and is thus impairing and limiting my powers and responsibility as a duly elected Member of Congress.

16. For redressing the impairment of my powers and responsibilities under Article I Section 8 Clause 11, I have no legislative remedy in Congress which is equivalent to the Constitutional power given to me under Clause 11. If I were to introduce a bill to terminate the war, or a bill to cut off funds for the war, and Congress were to pass such a bill, the President of the United States could veto it, thus necessitating a two-thirds vote in each house of Congress to override the President's veto. The necessity for a two-thirds vote is substantially different from the need for only a majority to defeat any declaration or authorization of war under Article I Section 8 Clause 11. My own vote could be decisive in providing an absolute majority in the House of Representatives for defeating a bill or resolution declaring or authorizing a war. But though my vote could provide an absolute majority would be insufficient, and my vote would be rendered useless and of no value, to override a presidential veto of a bill terminating or cutting off funds for the war where an absolute majority is short of the requisite two-thirds majority required to override a veto.

17. Because of his tremendous access to the mass media, his position as a national leader, his position as head of his party, his patronage power, and his fund-raising power, the President has tremendous political

power and great advantages in the legislative process. With this power and these advantages, he would be able to get Congress to intentionally authorize war if Congress really thinks we should fight. But as I've said before, it would be harder for him to get Congress to intentionally authorize war than for him to get Congress to pass appropriations and Selective Service bills without a cut-off of funds or troops. Cutting off funds or troops involves just too many problems to be an effective method of registering Congressional authorization for a war. Based on my experience in Congress if separation of powers is to be maintained, and if Congress' power over war is to be maintained with integrity, the President should have to get explicit and intentional Congressional authorization for war.

[Civil Action No. 697-71, in the United States District Court for the District of Columbia]

AFFIDAVIT OF HERMAN BADILLO, MEMBER OF CONGRESS

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss:

Herman Badillo, being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at 405 W. 259th Street, Bronx, New York.

2. I am a Member of the House of Representatives of the Congress of the United States, from the 21st Congressional District of New York. My term of office began in January, 1971.

3. I have not voted on any military authorization or military appropriation bills.

4. I have voted against extending the Selective Service Act.

5. There is at the present time a major war going on in Indo-China. It is the longest war in American history, the second most costly in terms of dollars, and one of the most in terms of American lives wounded and lost. The President of the United States has on numerous occasions referred to the war in Indo-China and it is common knowledge that a war in the Constitutional meaning of that term is being waged in Indo-China.

6. The defendants have made no statement indicating a time when the present war in Indo-China will end, but, on the contrary, specifically have refused to state any date when the war will end. There is, therefore, the threat that the war will continue. Although the defendants announced in 1969 that American troops would be withdrawn on a gradual basis, there has been geographical escalation and extension of the war into the independent nations of Cambodia and Laos, and massive aerial bombardment of North Vietnam.

7. I have not introduced any bill or proposed resolution in Congress declaring or authorizing war in Indo-China, as I am opposed to the war in Indo-China.

8. There has been no bill or resolution in Congress declaring or authorizing the war in Indo-China. Thus I have not voted in favor of any such bill or resolution, and I do not intend to vote in favor of any such bill or resolution in the foreseeable future.

9. Each day that Congress is in session I have refused to declare or authorize war in Indo-China. I have done this by not voting for any proposed bill or resolution that could have been introduced by any other member of Congress which would declare or authorize the war in Indo-China.

10. Because the Executive is fighting a war without Congress declaring or authorizing war, it is defeating the right and duty, possessed by myself and each other federal legislator under Article I Section 8 Clause II of the Constitution, to make the decision whether this nation shall fight a war, and it is defeating the efficacy of the continuing

refusal of myself and other legislators to vote in favor of any bill or resolution authorizing war in Indo-China.

11. By prosecuting a war in Indo-China that has not been declared or authorized by Congress under Article I Section 8 Clause 11, the Executive is defeating the principle of separation of powers established by the Constitution, is destroying a fundamental power of the United States Congress, and is thus impairing and limiting my powers and responsibility as a duly elected Member of Congress.

12. For redressing the impairment of my powers and responsibilities under Article I Section 8 Clause 11, I have no legislative remedy in Congress which is equivalent to the Constitutional power given to me under Clause 11. If I were to introduce a bill to terminate the war, or a bill to cut off funds for the war, and Congress were to pass such a bill, the President of the United States could veto it, thus necessitating a two-thirds vote in each House of Congress to override the President's veto. The necessity for a two-thirds vote is substantially different from the need for only a majority to defeat any declaration or authorization of war under Article I Section 8 Clause 11. My own vote could be decisive in providing an absolute majority in the House of Representatives for defeating a bill or resolution declaring or authorizing war. But though my vote could provide an absolute majority against declaring or authorizing war, such a majority would be insufficient, and my vote would be rendered useless and of no value, to override a presidential veto of a bill terminating or cutting off funds for the war where an absolute majority is short of the requisite two-thirds majority required to override a veto.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF MICHAEL J. HARRINGTON

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss:

Michael J. Harrington, being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at Bayview Avenue, Beverly, Massachusetts.

2. I am now and have been a Member of the House of Representatives of the Congress of the United States from the Sixth District of the State of Massachusetts since October 3, 1969.

3. I have not voted for general military appropriations bills during the course of the war in Indo-China. House enactment of military appropriations bills does not represent a decision that the U.S. shall fight a war. A Congressman's vote for military appropriations does not necessarily mean that he is for the war and wishes to authorize it, nor does a Congressman's failure to vote for legislation to cut off the use of funds in Indo-China mean that he favors the war and wishes to authorize it.

4. As voted upon by the House, a general military authorization or appropriations bill represents a "package" or "lumped" bill which authorizes or appropriates money for a great variety of military needs, many of which needs are essential to national security, such as ships, planes, bases, and military salaries. The costs of the war are not separately earmarked in the bills, so they cannot be separately identified. Moreover, the costs of the war are substantially less than half of the total monies appropriated for national defense, and over 80% of the forces for which money is authorized or appropriated are not in Indo-China.

Because Congressmen support the essential defense needs such as ships, planes, and salaries provided for in an authorization or

appropriation bill, most have felt that they must vote in favor of the bill even though they oppose the war, oppose the use of part of the bill's monies to finance the war, and would not vote to authorize the war in Indo-China. There is thus no way validly to generalize that the enactment of general military appropriations or authorization bills represents an intentional decision by the House that the United States should fight a war in Indo-China.

5. That Congress has not voted for cutting off funds for Indo-China does not mean that Congressmen favor the war or wish to authorize it. Congressmen have felt strongly that they cannot cut off money to American servicemen who are already in combat in the field and who need the monies for ammunition, food, shelter and other material requisite to survival. Moreover, House procedure has made it exceptionally difficult to bring up a bill or amendment cutting off funds. Committee chairmen would see to it that, when considered on the floor, a military authorization or appropriations bill was treated as a unitary "package." Very little or no opportunity was given for the introduction of, debate upon, or voting on amendments to the bill. Time to speak was not democratically apportioned among proponents and opponents. Thus, an amendment to cut off funds for the war would receive nothing but very short procedural shrift, as occurred to other amendments connected with the war. For these reasons, then, the enactment of a military authorization or appropriations bill without a fund cut-off could not represent a conscious and intentional House decision that the nation should fight a war in Indo-China.

6. An appropriations bill enacted without a fund cut-off cannot realistically be equated with a bill which is divorced from appropriations and which independently and intentionally authorizes war. The fact that Congress enacts appropriations bills without cutting off money does not mean Congress would be willing to authorize the war if asked to do so. It would be much harder for the Executive to get Congress to intentionally authorize the war than to get Congress to enact an authorization or appropriations act without a fund cut-off.

There are several reasons for this. If Congressmen were asked to authorize war in Indo-China in a bill independent of appropriations, they would think about this very carefully because there could be no doubt they are clearly being presented with a decision for or against war. Each Congressman would also think about it carefully because his vote would be recorded and would therefore be visible to the press and public, and he would be held accountable for his vote by his constituents. There would doubtlessly have been an earnest debate in Congress and in the nation at any time whatever since 1960 on whether war should be authorized in Indo-China. Such a Congressional debate would have raised all the questions incident to the desirability of committing this nation to fight a war in Asia, whether American troops should be sent to Indo-China, whether the war was in the national interest, and so forth. At the end of such a debate, if a Congressman had decided to vote against declaring or authorizing war, he would not have had to feel that he was cutting off necessary moneys to men in combat.

But the situation is entirely different in regard to military authorization and appropriations bills. These bills are considered under procedures which give short shrift to the possibility of introducing and debating amendments to cut off funds. The bills do not clearly present the decision of whether to fight a war, since they are "packages" which provide money for a tremendous number of defense needs. Congressmen feel that a cut off, even one at a future date, could endanger our men. Votes on amendments in Committee of the Whole have not been recorded in the

past, so that a Congressman's constituency is not aware of how he votes on amendments. But even if a Congressman were to announce that he voted to cut off monies, or if otherwise his position became public knowledge, his constituents could easily be angry with him for possibly endangering troops by cutting off monies. In contrast, his constituents might have agreed with him or been sympathetic with him if he refused affirmatively to authorize war on a war bill or resolution that was wholly divorced from cutting off funds.

Finally, even if Congress were to enact a general authorization or appropriations bill containing a provision cutting off monies, the President could veto the bill. If there were not a $\frac{2}{3}$ majority necessary in each House of Congress to override the veto, then, because our armed services cannot be left without funds, Congress would have to enact a new bill satisfactory to the President which did not contain a cut-off of monies. The threat of a Presidential veto thus acts as a substantial deterrent to Congressmen either to introduce or vote on an amendment for a fund cut-off.

7. In May 1965 and March 1967, the Executive, close to the end of the fiscal years involved, said it had run out of money to use in Vietnam, and Congress enacted supplemental appropriations to be used in Vietnam for the remainder of those fiscal years. I voted for those supplementals. However, votes for these supplemental appropriations did not represent a declaration, authorization, or ratification of war. Congressmen felt it necessary to vote for these bills because American servicemen were already in combat in the field and the Executive said the money was immediately necessary to provide them with requisites of survival such as food, ammunition, shelter, etc. In fact, at one point we were told by the President that to deny supplemental appropriations would be to deny support to men who are risking their lives. Thus, Congressmen voted for the supplementals even though they did not approve of and did not wish to authorize a large war in Indo-China.

8. The House voted in 1967 and 1971 for extensions of the Selective Service Act. But a vote for extending Selective Service is not a vote to declare, authorize or ratify the war in Indo-China.

This country has had a draft since 1940, in both times of war and times of peace. It needs an army in peacetime, and an army is necessary entirely aside from the facts that troops are fighting in Vietnam. Without a sufficient army, it would be impossible to properly man our bases, installations, etc. Unless and until there is a volunteer army, the army must be raised by conscription. Thus, most Congressmen felt it necessary to vote to extend Selective Service even though they would not have voted to authorize the war and were opposed to using American troops in the Indo-China war.

Moreover, any attempts to amend the Selective Service extension bills to cut off the use of troops in Indo-China would have run into procedural obstacles. A bill to cut-off troops would not have been reported out of committee, and due to various obstacles which arise from rules under which bills are debated and voted upon the floor, floor amendments to cut off troops have not received a fair opportunity to be introduced, debated and considered.

Finally, as long as the U.S. was fighting a war, most Congressmen, even though they opposed the war, felt the draft was necessary to permit the replacement of troops who had already served in combat.

Thus, for all these reasons, Congressmen felt it necessary to vote for Selective Service extensions though they did not intend to authorize the war and would not have voted to authorize the war.

9. The Tonkin Gulf Resolution was not intended as an authorization for a large,

long war in Indo-China. It was passed in response to the specific fact of an alleged attack on American ships in the Tonkin Gulf. It was intended solely to support the President's action in repulsing that alleged attack and to deter further such attacks. It was not intended as Congressional authorization for a major land, sea and air war in Asia. Moreover, the Executive secured passage of the Resolution through deceiving Congress by untrue statements.

10. The war in Indo-China is a major one. It is the longest war in American history, the second most costly in terms of dollars, and one of the most costly in terms of American lives wounded and lost. The President of the United States has on numerous occasions referred to the "war" in Indo-China and it is common knowledge that a "war" in the constitutional meaning of that term is being waged in Indo-China.

The defendants have made no statement indicating a time when the present war in Indo-China will end, but, on the contrary specifically have refused to state any date when the war will end. There is, therefore, the threat that the war will continue. Although the defendants announced in 1969 that American troops would be withdrawn on a gradual basis, there has been geographical escalation and extension of the war into the independent nations of Cambodia and Laos, and massive aerial bombardment of North Vietnam, Laos and Cambodia.

11. I have not and would not introduce any bill or proposed resolution in Congress declaring or authorizing war in Indo-China, as I am opposed to the war in Indo-China and thus could not be a sponsor of any such bill or resolution.

12. There has been no bill or resolution in Congress declaring or authorizing the war in Indo-China. Thus I have not voted in favor of any such bill or resolution, and I do not intend to vote in favor of any such bill or resolution in the foreseeable future. I would actively oppose any such proposed bill or resolution, by vote and by public debate.

13. Each day that Congress is in session I refuse to declare or authorize war in Indo-China. I do this by not voting for any proposed bill or resolution that could be introduced by any other member of Congress which would declare or authorize the war in Indo-China.

14. Because the Executive is fighting a war without Congress declaring or authorizing war, it is defeating the right and duty, possessed by myself and each other federal legislator under Article I, Section 8, Clause 11 of the Constitution, to make the decision whether this nation shall fight a war, and it is defeating the efficacy of the continuing refusal of myself and other legislators to vote in favor of any bill or resolution authorizing war in Indo-China.

15. By prosecuting a war in Indo-China that has not been declared or authorized by Congress under Article I, Section 8, Clause 11, the Executive is defeating the principle of separation of powers established by the Constitution, is destroying a fundamental power of the United States Congress, and is thus impairing and limiting my powers and responsibility as a duly elected Member of Congress.

16. For redressing the impairment of my powers and responsibilities under Article I Section 8 Clause 11, I have no legislative remedy in Congress which is equivalent to the Constitutional power given to me under Clause 11. If I were to introduce a bill to terminate the war, or a bill to cut off funds for the war, and Congress were to pass such a bill, the President of the United States could veto it, thus necessitating a two-thirds vote in each House of Congress to override the President's veto. The necessity for a two-thirds vote is substantially different from the need for only a majority to defeat any declaration or authorization of war un-

der Article I Section 8 Clause 11. My own vote could be decisive in providing an absolute majority in the House of Representatives for defeating a bill or resolution declaring or authorizing war. But though my vote could provide an absolute majority against declaring or authorizing war, such a majority would be insufficient, and my vote would be rendered useless and of no value, to override a presidential veto of a bill terminating or cutting off funds for the war where an absolute majority is short of the requisite two-thirds majority required to override a veto.

17. Because of his tremendous access to the mass media, his position as national leader, his position as head of his party, his patronage power, and his fund-raising power, the President has tremendous political power and great advantages in the legislative process. With this power and these advantages, he would be able to get Congress to intentionally authorize war if Congress really thinks we should fight. But as I've said before, it would be harder for him to get Congress to intentionally authorize war than for him to get Congress to pass appropriations and Selective Service bills without a cut-off of funds or troops. Cutting off funds or troops involves just too many problems to be an effective method of registering Congressional authorization for a war. Based on my experience in Congress, if separation of powers is to be maintained, and if Congress' power over war is to be maintained with integrity, the President should have to get explicit and intentional Congressional authorization for war.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF BELLA S. ABZUG

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss:

Bella S. Abzug, being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at 37 Bank Street, New York, New York.

2. I am a Member of the House of Representatives of the Congress of the United States, from the

My term of office began in January, 1971.

3. I have not voted on any military authorization or military appropriation bills.

4. I have voted against extending the Selective Service Act.

5. There is at the present time a major war going on in Indo-China. It is the longest war in American history, the second most costly in terms of dollars, and one of the most costly in terms of American lives wounded and lost. The President of the United States has on numerous occasions referred to the war in Indo-China and it is common knowledge that a war in the Constitutional meaning of that term is being waged in Indo-China.

6. The defendants have made no statement indicating a time when the present war in Indo-China will end, but, on the contrary, specifically have refused to state any date when the war will end. There is, therefore, the threat that the war will continue. Although the defendants announced in 1969 that American troops would be withdrawn on a gradual basis, there has been geographical escalation and extension of the war into the independent nations of Cambodia and Laos, and massive aerial bombardment of North Vietnam.

7. I have not and would not introduce any bill or proposed resolution in Congress declaring or authorizing war in Indo-China, as I am opposed to the war in Indo-China and thus could not be a sponsor of any such bill or resolution.

8. There has been no bill or resolution in Congress declaring or authorizing the war in Indo-China. Thus I have not voted in

favor of any such bill or resolution, and I do not intend to vote in favor of any such bill or resolution in the foreseeable future. I would actively oppose any such proposed bill or resolution, by vote and by public debate.

9. Each day that Congress is in session I refuse to declare or authorize war in Indo-China. I do this by not voting for any proposed bill or resolution that could be introduced by any other member of Congress which would declare or authorize the war in Indo-China.

10. Because the Executive is fighting a war without Congress declaring or authorizing war, it is defeating the right and duty, possessed by myself and each other federal legislator under Article I Section 8 Clause 11 of the Constitution, to make the decision whether this nation shall fight a war, and it is defeating the efficacy of the continuing refusal of myself and other legislators to vote in favor of any bill or resolution authorizing war in Indo-China.

11. By prosecuting a war in Indo-China that has not been declared or authorized by Congress under Article I Section 8 Clause 11, the Executive is defeating the principle of separation of powers established by the Constitution, is destroying a fundamental power of the United States Congress, and is thus impairing and limiting my powers and responsibility as a duly elected Member of Congress.

12. For redressing the impairment of my powers and responsibilities under Article I Section 8 Clause 11, I have no legislative remedy in Congress which is equivalent to the Constitutional power given to me under Clause 11. If I were to introduce a bill to terminate the war, or a bill to cut off funds for the war, and Congress were to pass such a bill, the President of the United States could veto it, thus necessitating a two-thirds vote in each house of Congress to override the President's veto. The necessity for a two-thirds vote is substantially different from the need for only a majority to defeat any declaration or authorization of war under Article I Section 8 Clause 11. My own vote could be decisive in providing an absolute majority in the House of Representatives for defeating a bill or resolution declaring or authorizing war. But though my vote could provide an absolute majority against declaring or authorizing war, such a majority would be insufficient, and my vote would be rendered useless and of no value, to override a presidential veto of a bill terminating or cutting off funds for the war where an absolute majority is short of the requisite two-thirds majority required to override a veto.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF WILLIAM R. ANDERSON

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss: William R. Anderson, being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at 2700 Virginia Avenue, N.W., Washington, D.C.

2. I am now and have been a Member of the House of Representatives of the Congress of the United States from the 6th District of the State of Tenn. since January 1965.

3. Passage by the House of Representatives of general military appropriations bills does not constitute a declaration, authorization, or ratification of the war in Indo-China.

As voted upon by the House, a general military authorization or appropriations bill represents a "package" or "lumped" bill which authorizes or appropriates money for a great variety of military needs, many of which needs are essential to national security, such as ships, planes, bases, and military salaries.

Because Congressmen support the essential defense needs such as ships, planes, and salaries provided for in an authorization or appropriation bill, they have felt that they must vote in favor of the bill even though they oppose the war, oppose the use of part of the bill's monies to finance the war, and would not vote to authorize the war in Indo-China.

4. That Congress has not voted for cutting off funds for Indo-China does not mean that Congressmen favor the war or wish to authorize it. Congressmen have felt strongly that they cannot cut off money to American servicemen who are already in combat in the field and who need the monies for ammunition, food, shelter and other materiel requisite to survival. Moreover, House procedure has in a variety of ways made it exceptionally difficult to bring up a bill or amendment cutting off funds.

For these reasons, the enactment of a military authorization or appropriations bill without a fund cut-off could not represent a conscious and intentional House decision that the nation should fight a war in Indo-China.

5. An appropriations bill enacted without a fund cut-off cannot realistically be equated with a bill which is divorced from appropriations and which independently and intentionally authorizes war. It would be much harder for the Executive to get Congress to intentionally authorize the war than to get Congress to enact an authorization or appropriations act without a fund cut-off. In my opinion, Congress would not have, and will not, intentionally authorize war in Indo-China.

6. Supplemental appropriations for Vietnam, enacted during May 1965 and March 1967 just before the end of those fiscal years, did not constitute a declaration, authorization or ratification of war. Though Congressmen did not approve of and did not wish to authorize a large war in Indo-China, they felt it necessary to vote for these bills because American servicemen were already in combat in the field and the Executive said the money was immediately necessary to provide them with requisites of survival such as food, ammunition, shelter, etc.

7. Enactment of Selective Service extensions in 1967 and 1971 did not constitute a declaration, authorization or ratification of war in Indo-China. This country has had a draft since 1940, in both times of war and times of peace. It needs an army in peacetime, and an army is necessary entirely aside from the facts that troops are fighting in Vietnam. Without a sufficient army, it would be impossible to properly man our bases, installations, etc. Unless and until there is a volunteer army, the army must be raised by conscription. Thus, most Congressmen felt it necessary to vote to extend Selective Service even though they would not have voted to authorize the war and were opposed to using American troops in the Indo-China war.

8. The Tonkin Gulf Resolution was not intended as an authorization for a large, long war in Indo-China. It was intended solely to support the President's action in repulsing an alleged attack on American ships in the Gulf of Tonkin, and to deter further such attacks. Moreover, the Executive secured passage of the Resolution by deceiving Congress with untrue statements.

9. The defendants have made no statement indicating a time when the present war in Indo-China will end, but, on the contrary, specifically have refused to state any date when the war will end. There is, therefore, the threat that the war will continue. Although the defendants announced in 1969 that American troops would be withdrawn on a gradual basis, there has been geographical escalation and extension of the war into the independent nations of Cambodia and

Laos, and massive aerial bombardment of North Vietnam, Laos and Cambodia.

10. There has been no bill or resolution in Congress declaring or authorizing the war in Indo-China.

I have not and would not introduce any such bill as I am opposed to the war in Indo-China. Moreover, each day that Congress is in session I refuse to declare or authorize war in Indo-China: I do this by refusing to vote for any proposed bill or resolution that could be introduced by any other member of Congress which would declare or authorize the war in Indo-China.

11. By prosecuting an unauthorized war in Indo-China, the Executive is impairing and limiting my powers and responsibilities, as a duly elected Member of Congress, under Article I Section 8 Clause 11 of the United States Constitution.

12. I have no legislative remedy in Congress, equivalent to my refusal to authorize war under Article I Section 8 Clause 11, that can block a war at the outset or speedily terminate one that has been unconstitutionally started. Impeachment of the Executive is a totally unrealistic and impracticable procedure, and one that could destroy the stability of our governmental system. A bill to cut off the use of funds or troops for the war could be vetoed by the President, thus necessitating a two-thirds vote of Congress to override the veto.

13. Based on my experience in Congress, if separation of powers is to be maintained, and if Congress' power over war is to be maintained with integrity, the President should have to get explicit and intentional Congressional authorization for war.

[Civil Action No. 697-71, in the U.S. District Court for the District of Columbia]

AFFIDAVIT OF CHARLES C. DIGGS, JR.

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss:

I, Charles C. Diggs, Jr., being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at 1361 Joliet Place Detroit, Michigan.

2. I am now and have been a Member of the House of Representatives of the Congress of the United States from the 13th District of the State of Mich. since 1955.

3. I have voted for general military appropriations bills during the course of the war in Indo-China. In voting for such bills, I did not intend to declare, authorize or ratify the war in Indo-China. House enactment of military appropriations bills does not represent a decision that the U.S. shall fight a war. A Congressman's vote for military appropriations does not necessarily mean that he is for the war and wishes to authorize it, nor does a Congressman's failure to vote for legislation to cut off the use of funds in Indo-China mean that he favors the war and wishes to authorize it.

4. As voted upon by the House, a general military authorization or appropriations bill represents a "package" or "lumped" bill which authorizes or appropriates money for a great variety of military needs, many of which needs are essential to national security, such as ships, planes, bases, and military salaries. The costs of the war are not separately earmarked in the bills, so they cannot be separately identified. Moreover, the costs of the war are substantially less than half of the total moneys appropriated for national defense, and over 80% of the forces for which money is authorized or appropriated are not in Indo-China.

Because Congressmen support the essential defense needs such as ships, planes, and salaries provided for in an authorization or appropriation bill, they have felt that they must vote in favor of the bill, even though they oppose the war, oppose the use of part of the bill's moneys to finance the war, and

would not vote to authorize the war in Indo-China. There is thus no way validly to generalize that the enactment of general military appropriations or authorization bills represents an intentional decision by the House that the United States should fight a war in Indo-China.

5. That Congress has not voted for cutting off funds for Indo-China does not mean that Congressmen favor the war or wish to authorize it. Congressmen have felt strongly that they cannot cut off money to American servicemen who are already in combat in the field and who need the monies for ammunition, food, shelter and other materiel requisite to survival. Moreover, House procedure has made it exceptionally difficult to bring up a bill or amendment cutting off funds. Committee chairmen would see to it that, when considered on the floor, a military authorization or appropriations bill was treated as a unitary "package." Very little or no opportunity was given for the introduction of debate upon, or voting on amendments to the bill. Time to speak was not democratically apportioned among proponents and opponents. Thus, an amendment to cut off funds for the war would receive nothing but very short procedural shrift, as occurred to other amendments connected with the war. For these reasons, then, the enactment of a military authorization or appropriations bill without a fund cut-off could not represent a conscious and intentional House decision that the nation should fight a war in Indo-China.

6. An appropriations bill enacted without a fund cut-off cannot realistically be equated with a bill which is divorced from appropriations and which independently and intentionally authorizes war. The fact that Congress enacts appropriations bills without cutting off money does not mean Congress would be willing to authorize the war if asked to do so. It would be much harder for the Executive to get Congress to intentionally authorize the war than to get Congress to enact an authorization or appropriations act without a fund cut-off.

There are several reasons for this. If Congressmen were asked to authorize war in Indo-China in a bill independent of appropriations, they would think about this very carefully because there could be no doubt they are clearly being presented with a decision for or against war. Each Congressman would also think about it carefully because his vote would be recorded and would therefore be visible to the press and public, and he would be held accountable for his vote by his constituents. There would doubtlessly have been an earnest debate in Congress and in the nation at any time whatever since 1960 on whether war should be authorized in Indo-China. Such a Congressional debate would have raised all the questions incident to the desirability of committing this nation to fight a war in Asia, whether American troops should be sent to Indo-China, whether the war was in the national interest, and so forth. At the end of such a debate if a Congressman had decided to vote against declaring or authorizing war, he would not have had to feel that he was cutting off necessary monies to men in combat.

But the situation is entirely different in regard to military authorization and appropriations bills. These bills are considered under procedures which give short shrift to the possibility of introducing and debating amendments to cut off funds. The bills do not clearly present the decision of whether to fight a war, since they are "packages" which provide money for a tremendous number of defense needs. Congressmen feel that a cut off, even one at a future date, could endanger our men. Votes on amendments in Committee of the Whole have not been recorded in the past, so that a Congressman's constituency is not aware of how he votes

on amendments. But even if a Congressman were to announce that he voted to cut off monies, or if otherwise his position became public knowledge, his constituents could easily be angry with him for possibly endangering troops by cutting off monies. In contrast, his constituents might have agreed with him or been sympathetic with him if he refused affirmatively to authorize war on a war bill or resolution that was wholly divorced from cutting off funds.

Finally, even if Congress were to enact a general authorization or appropriations bill containing a provision cutting off monies, the President could veto the bill. If there were not a 2/3 majority necessary in each House of Congress to override the veto, then, because our armed services cannot be left without funds, Congress would have to enact a new bill satisfactory to the President which did not contain a cutoff of monies. The threat of a Presidential veto thus acts as a substantial deterrent to Congressmen either to introduce or vote on an amendment for a fund cut-off.

7. In May 1965 and March 1967, the Executive, close to the end of the fiscal years involved, said it had run out of money to use in Vietnam, and Congress enacted supplemental appropriations to be used in Vietnam for the remainder of those fiscal years. I voted for those supplementals. However, votes for these supplemental appropriations did not represent a declaration, authorization, or ratification of war. Congressmen felt it necessary to vote for these bills because American servicemen were already in combat in the field and the Executive said the money was immediately necessary to provide them with requisites of survival such as food, ammunition, shelter, etc. In fact, at one point we were told by the President that to deny supplemental appropriations would be to deny support to men who are risking their lives. Thus, Congressmen voted for the supplementals even though they did not approve of and did not wish to authorize a large war in Indo-China.

8. The House voted in 1967 and 1971 for extensions of the Selective Service Act. But a vote for extending Selective Service is not a vote to declare, authorize or ratify the war in Indo-China.

This country has had a draft since 1940, in both times of war and times of peace. It needs an army in peacetime, and an army is necessary entirely aside from the facts that troops are fighting in Vietnam. Without a sufficient army, it would be impossible to properly man our bases, installations, etc. Unless and until there is a volunteer army, the army must be raised by conscription. Thus, most Congressmen felt it necessary to vote to extend Selective Service even though they would not have voted to authorize the war and were opposed to using American troops in the Indo-China war.

Moreover, any attempts to amend the Selective Service extension bills to cut off the use of troops in Indo-China would have run into procedural obstacles. A bill to cut off troops would not have been reported out of committee, and due to various obstacles which arise from rules under which bills are debated and voted upon on the floor, a floor amendment to cut off troops would not have received a fair opportunity to be introduced, debated and considered.

Finally, as long as the U.S. was fighting a war, most Congressmen, even though they opposed the war, felt the draft was necessary to permit the replacement of troops who had already served in combat.

Thus, for all these reasons, Congressmen felt it necessary to vote for Selective Service extensions though they did not intend to authorize the war and would not have voted to authorize the war.

9. I voted for the Tonkin Gulf Resolution. It was not intended as an authorization for a large, long war in Indo-China. It was passed

in response to the specific fact of an alleged attack on American ships in the Tonkin Gulf. It was intended solely to support the President's action in repulsing that alleged attack and to deter further such attacks. It was not intended as Congressional authorization for a major land, sea and air war in Asia. Moreover, the Executive secured passage of the Resolution through deceiving Congress by untrue statements.

10. The war in Indo-China is a major one. It is the longest war in American history, the second most costly in terms of dollars, and one of the most costly in terms of American lives wounded and lost. The President of the United States has on numerous occasions referred to the "war" in Indo-China and it is common knowledge that a "war" in the constitutional meaning of that term is being waged in Indo-China.

The defendants have made no statement indicating a time when the present war in Indo-China will end, but, on the contrary, specifically have refused to state any date when the war will end. There is, therefore, the threat that the war will continue. Although the defendants announced in 1969 that American troops would be withdrawn on a gradual basis, there has been geographical escalation and extension of the war into the independent nations of Cambodia and Laos, and massive aerial bombardment of North Vietnam, Laos and Cambodia.

11. I have not and would not introduce any bill or proposed resolution in Congress declaring or authorizing war in Indo-China, as I am opposed to the war in Indo-China and thus could not be a sponsor of any such bill or resolution.

12. There has been no bill or resolution in Congress declaring or authorizing the war in Indo-China. Thus I have not voted in favor of any such bill or resolution, and I do not intend to vote in favor of any such bill or resolution in the foreseeable future. I would actively oppose any such proposed bill or resolution, by vote and by public debate.

13. Each day that Congress is in session I refuse to declare or authorize war in Indo-China. I do this by not voting for any proposed bill or resolution that could be introduced by any other member of Congress which would declare or authorize the war in Indo-China.

14. Because the Executive is fighting a war without Congress declaring or authorizing war, it is defeating the right and duty, possessed by myself and each other federal legislator under Article I Section 8 Clause 11 of the Constitution, to make the decision whether this nation shall fight a war, and it is defeating the efficacy of the continuing refusal of myself and other legislators to vote in favor of any bill or resolution authorizing war in Indo-China.

15. By prosecuting a war in Indo-China that has not been declared or authorized by Congress under Article I Section 8 Clause 11, the Executive is defeating the principle of separation of powers established by the Constitution, is destroying a fundamental power of the United States Congress, and is thus impairing and limiting my powers and responsibility as a duly elected Member of Congress.

16. For redressing the impairment of my powers and responsibilities under Article I Section 8 Clause 11, I have no legislative remedy in Congress which is equivalent to the Constitutional power given to me under Clause 11. If I were to introduce a bill to terminate the war, or a bill to cut off funds for the war, and Congress were to pass such a bill, the President of the United States could veto it, thus necessitating a two-thirds vote in each house of Congress to override the President's veto. The necessity for a two-thirds vote is substantially different

from the need for only a majority to defeat any declaration or authorization of war under Article I Section 8 Clause 11. My own vote could be decisive in providing an absolute majority in the House of Representatives for defeating a bill or resolution declaring or authorizing war. But though my vote could provide an absolute majority against declaring or authorizing war, such a majority would be insufficient, and my vote would be rendered useless and of no value, to override a presidential veto of a bill terminating or cutting off funds for the war where an absolute majority is short of the requisite two-thirds majority required to override a veto.

17. Because of his tremendous access to the mass media, his position as national leader, his position as head of his party his patronage power, and his fund-raising power, the President has tremendous political power and great advantages in the legislative process. With this power and these advantages, he would be able to get Congress to intentionally authorize war if Congress really thinks we should fight. But as I've said before, it would be harder for him to get Congress to intentionally authorize war than for him to get Congress to pass appropriations and Selective Service bills without a cut-off of funds or troops. Cutting off funds or troops involves just too many problems to be an effective method of registering Congressional authorization for a war. Based on my experience in Congress, if separation of powers is to be maintained, and if Congress' power over war is to be maintained with integrity, the President should have to get explicit and intentional Congressional authorization for war.

[Civil Action No. 697-71, in the United States District Court for the District of Columbia]

AFFIDAVIT OF LOUIS STOKES

The Honorable Parren J. Mitchell, et al., Plaintiffs, v. Richard M. Nixon, et al., Defendants.

District of Columbia, ss:

Louis Stokes, being first duly sworn upon oath, deposes and says as follows:

1. I currently reside at 12600 Shaker Boulevard, Cleveland, Ohio.

2. I am now and have been a Member of the House of Representatives of the Congress of the United States from the 21st District of the State of Ohio since January 3, 1969.

3. I have voted for general military appropriations bills during the course of the war in Indo-China. In voting for such bills, I did not intend to declare, authorize or ratify the war in Indo-China. House enactment of military appropriations bills does not represent a decision that the U.S. shall fight a war. A Congressman's vote for military appropriations does not necessarily mean that he is for the war and wishes to authorize it, nor does a Congressman's failure to vote for legislation to cut off the use of funds in Indo-China mean that he favors the war and wishes to authorize it.

4. As voted upon by the House, a general military authorization or appropriations bill represents a "package" or "lumped" bill which authorizes or appropriates money for a great variety of military needs, many of which needs are essential to national security, such as ships, planes, bases, and military salaries. The costs of the war are not separately earmarked in the bills, so they cannot be separately identified. Moreover, the costs of the war are substantially less than half of the total monies appropriated for national defense, and over 80% of the forces for which money is authorized or appropriated are not in Indo-China.

Because Congressmen support the essential defense needs such as ships, planes, and salaries provided for in an authorization or

appropriation bill, they have felt that they must vote in favor of the bill even though they oppose the war, oppose the use of part of the bill's monies to finance the war, and would not vote to authorize the war in Indo-China. There is thus no way validly to generalize that the enactment of general military appropriations or authorization bills represents an intentional decision by the House that the United States should fight a war in Indo-China.

5. That Congress has not voted for cutting off funds for Indo-China does not mean that Congressmen favor the war or wish to authorize it. Congressmen have felt strongly that they cannot cut off money to American servicemen who are already in combat in the field and who need the monies for ammunition, food, shelter and other material requisite to survival. Moreover, House procedure has made it exceptionally difficult to bring up a bill or amendment cutting off funds. Committee chairmen would see to it that, when considered on the floor, a military authorization or appropriations bill was treated as a unitary "package." Very little or no opportunity was given for the introduction of debate upon, or voting on amendments to the bill. Time to speak was not democratically apportioned among proponents and opponents. Thus, an amendment to cut off funds for the war would receive nothing but very short procedural shrift, as occurred to other amendments connected with the war. For these reasons, then, the enactment of a military authorization or appropriations bill without a fund cut-off could not represent a conscious and intentional House decision that the nation should fight a war in Indo-China.

6. An appropriations bill enacted without a fund cut-off cannot realistically be equated with a bill which is divorced from appropriations and which independently and intentionally authorizes war. The fact that Congress enacts appropriations bills without cutting off money does not mean Congress would be willing to authorize the war if asked to do so. It would be much harder for the Executive to get Congress to intentionally authorize the war than to get Congress to enact an authorization or appropriations act without a fund cut-off.

There are several reasons for this. If Congressmen were asked to authorize war in Indo-China in a bill independent of appropriations, they would think about this very carefully because there could be no doubt they are clearly being presented with a decision for or against war. Each Congressman would also think about it carefully because his vote would be recorded and would therefore be visible to the press and public, and he would be held accountable for his vote by his constituents. There would doubtlessly have been an earnest debate in Congress and in the nation at any time whatever since 1960 on whether war should be authorized in Indo-China. Such a Congressional debate would have raised all the questions incident to the desirability of committing this nation to fight a war in Asia, whether American troops should be sent to Indo-China, whether the war was in the national interest, and so forth. At the end of such a debate, if a Congressman had decided to vote against declaring or authorizing war, he would not have had to feel that he was cutting off necessary monies to men in combat.

But the situation is entirely different in regard to military authorization and appropriations bills. These bills are considered under procedures which give short shrift to the possibility of introducing and debating amendments to cut off funds. The bills do not clearly present the decision of whether to fight a war, since they are "packages" which provide money for a tremendous number of defense needs. Congressmen feel that a cut

off, even one at a future date, could endanger our men. Votes on amendments in Committee of the Whole have not been recorded in the past, so that a Congressman's constituency is not aware of how he votes on amendments. But even if a Congressman were to announce that he voted to cut off monies, or if otherwise his position became public knowledge, his constituents could easily be angry with him for possibly endangering troops by cutting off monies. In contrast, his constituents might have agreed with him or been sympathetic with him if he refused affirmatively to authorize war on a war bill or resolution that was wholly divorced from cutting off funds.

Finally, even if Congress were to enact a general authorization or appropriations bill containing a provision cutting off monies, the President could veto the bill. If there were not a $\frac{2}{3}$ majority necessary in each House of Congress to override the veto, then, because our armed services cannot be left without funds, Congress would have to enact a new bill satisfactory to the President which did not contain a cut-off of monies. The threat of a Presidential veto thus acts as a substantial deterrent to Congressmen either to introduce or vote on an amendment for a fund cut-off.

7. Congress voted in 1967 and 1971 for extensions of the Selective Service Act. But a vote for extending Selective Service is not a vote to declare, authorize or ratify the war in Indo-China.

This country has had a draft since 1940, in both times of war and times of peace. It needs an army in peacetime, and an army is necessary entirely aside from the facts that troops are fighting in Vietnam. Without a sufficient army, it would be impossible to properly man our bases, installations, etc. Unless and until there is a volunteer army, the army must be raised by conscription. Thus, most Congressmen felt it necessary to vote to extend Selective Service even though they would not have voted to authorize the war and were opposed to using American troops in the Indo-China war.

Moreover, any attempts to amend the Selective Service extension bills to cut off the use of troops in Indo-China would have run into procedural obstacles. A bill to cut off troops would not have been reported out of committee, and due to various obstacles which arise from rules under which bills are debated and voted upon on the floor, a floor amendment to cut off troops would not have received a fair opportunity to be introduced, debated and considered.

Finally, as long as the U.S. was fighting a war, most Congressmen, even though they opposed the war, felt the draft was necessary to permit the replacement of troops who had already served in combat.

Thus, for all these reasons, Congressmen felt it necessary to vote for Selective Service extensions though they did not intend to authorize the war and would not have voted to authorize the war.

8. The war in Indo-China is a major one. It is the longest war in American history, the second most costly in terms of dollars, and one of the most costly in terms of American lives wounded and lost. The President of the United States has on numerous occasions referred to the "war" in Indo-China and it is common knowledge that a "war" in the constitutional meaning of that term is being waged in Indo-China.

The defendants have made no statement indicating a time when the present war in Indo-China will end, but, on the contrary, specifically have refused to state any date when the war will end. There is, therefore, the threat that the war will continue. Although the defendants announced in 1969 that American troops would be withdrawn

on a gradual basis, there has been geographical escalation and extension of the war into the independent nations of Cambodia and Laos, and massive aerial bombardment of North Vietnam, Laos and Cambodia.

9. I have not and would not introduce any bill or proposed resolution in Congress declaring or authorizing war in Indo-China, as I am opposed to the war in Indo-China and thus could not be a sponsor of any such bill or resolution.

10. There has been no bill or resolution in Congress declaring or authorizing the war in Indo-China. Thus I have not voted in favor of any such bill or resolution, and I do not intend to vote in favor of any such bill or resolution in the foreseeable future. I would actively oppose any such proposed bill or resolution, by vote and by public debate.

11. Each day that Congress is in session I refuse to declare or authorize war in Indo-China. I do this by not voting for any proposed bill or resolution that would be introduced by any other member of Congress which would declare or authorize the war in Indo-China.

12. Because the Executive is fighting a war without Congress declaring or authorizing war, it is defeating the right and duty, possessed by myself and each other federal legislator under Article I Section 8 Clause 11 of the Constitution, to make the decision whether this nation shall fight a war, and it is defeating the efficacy of the continuing refusal of myself and other legislators to vote in favor of any bill or resolution authorizing war in Indo-China.

13. By prosecuting a war in Indo-China that has not been declared or authorized by Congress under Article I Section 8 Clause 11, the Executive is defeating the principle of separation of powers established by the Constitution, is destroying a fundamental power of the United States Congress, and is thus impairing and limiting my powers and responsibility as a duly elected Member of Congress.

14. For redressing the impairment of my powers and responsibilities under Article I Section 8 Clause 11, I have no legislative remedy in Congress which is equivalent to the Constitutional power given to me under Clause 11. If I were to introduce a bill to terminate the war, or a bill to cut off funds for the war, and Congress were to pass such a bill, the President of the United States could veto it, thus necessitating a two-thirds vote in each House of Congress to override the President's veto. The necessity for a two-thirds vote is substantially different from the need for only a majority to defeat any declaration or authorization of war under Article I Section 8 Clause 11. My own vote could be decisive in providing an absolute majority in the House of Representatives for defeating a bill or resolution declaring or authorizing war. But though my vote could provide an absolute majority against declaring or authorizing war, such a majority would be insufficient, and my vote would be rendered useless and of no value, to override a presidential veto of a bill terminating or cutting off funds for the war where an absolute majority is short of the requisite two-thirds majority required to override a veto.

15. Because of his tremendous access to the mass media, his position as national leader, his position as head of his party, his patronage power, and his fund-raising power, the President has tremendous political power and great advantages in the legislative process. With this power and these advantages, he would be able to get Congress to intentionally authorize war if Congress really thinks we should fight. But as I said before, it would be harder for him to get Congress to intentionally authorize war than for him

to get Congress to pass appropriations and Selective Service bills without a cut-off of funds or troops. Cutting off funds or troops involves just too many problems to be an effective method of registering Congressional authorization for a war. Based on my experience in Congress, if separation of powers is to be maintained, and if Congress' power over war is to be maintained with integrity, the President should have to get explicit and intentional Congressional authorization for war.

U.S. SENATE,

Washington, D.C., May 19, 1971.

HON. PARREN MITCHELL,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN MITCHELL: I understand that your office is compiling a number of Congressional opinions on the question of whether military appropriations are an equivalent to a declaration of war.

I would like to state emphatically that although I have voted for military appropriations measures, such votes have never been intended to express a declaration or a ratification of the war. Since I have been in the Senate I have consistently opposed the tragic war in Indo-China. This opposition has never been compromised by a vote for military authorizations or military appropriations.

It is important to clarify, further, that I believe under the Constitution the adoption of a military authorization or appropriation measure does not constitute an authorization for a war. Support for military appropriations is in no way equivalent to a declaration of war.

Sincerely,

ALAN CRANSTON.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 25th day of May, 1971, he served the foregoing Motion of Plaintiffs for Injunctive Relief, together with Memorandum of Points and Authorities, and annexed Affidavits, by mailing same first class mail, postage prepaid, to Thomas A. Flannery, Esq., Joseph M. Hannon, Esq., and Arnold T. Aikens, Esq., c/o Office of the United States Attorney for the District of Columbia, United States Courthouse, John Marshall Place, N.W., Washington, D.C. 20001; and to John Mitchell, Esq., Attorney General of the United States, c/o Department of Justice, Washington, D.C. 20001.

STEFAN F. TUCKER.

CONSUMER LAW—A TOOL TO DESTROY COMMUNIST RECORDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. RARICK) is recognized for 15 minutes.

Mr. RARICK. Mr. Speaker, few in this body would knowingly pass legislation to give Federal agencies a license to destroy records and dossiers on Communist and subversive organizations and individuals and interlocking international combinations. Yet the bureaucracy—which goes by direction rather than law—are doing just that.

Last October 13 this body adopted the conference report on the bill, H.R. 15073—now Public Law 91-508—to amend the Federal Deposit Insurance Act. The emotional encouragement was to force the holders of unmarked foreign bank accounts to report their transactions to the U.S. Treasury Department.

Barely noticed at the adoption of the conference report were the several amendments passed by the Senate. One was title VI which amended the Consumer Credit Protection Act by adding at the end of that act a new title VI dealing with consumer credit reporting.

Many Members had come to be sympathetic with consumers and life insurance applicants by a skillfully prepared program of individual complaints growing out of computer mistakes, human errors, and confidential credit files which were utilized by merchants, businessmen, and corporations in screening their customers, employees, and applicants. At most, the added amendment was presupposed as a protection of the individual's right of privacy.

It is highly doubtful that many Members last October realized that the consumer credit reporting section would be utilized to attack and destroy investigating agencies, police, military, and in fact anyone who retains files on activists and other people who are or may become prominent in public life or leadership.

While they have not been told so, thinking Americans must by now be aware of the organized and concerted move afoot to abolish records and files compiled by the military intelligence, the FBI, and local police intelligence groups. They must associate in these attacks the attempts to destroy J. Edgar Hoover and Otto Otepka. The design seems intent on abolishing records of arrest, subversive or mysterious activity, associations and activities, and other factual data. It may appear difficult to ascertain how police records and subversive activities and membership in interlocking international organizations can be considered as credit reporting. Yet the bureaucrats in unelected power are now attempting to build bridges to such a goal, hiding behind the color of Federal law, as if protecting the right of privacy of consumers in the marketplace and in private employment.

Under title VI, dealing with consumer credit reports, the Federal Trade Commission was delegated the authority for the use of its procedural, investigative, and enforcement powers, which it has under the Federal Trade Commission Act, to secure compliance under the consumer credit protection law.

Quite noteworthy in the conference report, CONGRESSIONAL RECORD, volume 116, part 27, page 36573, we find this paragraph:

While the conferees did not agree to the House amendment to give the Federal Trade Commission the authority to issue regulations, it is strongly urged that the Federal Trade Commission employ their existing regulatory authority to the greatest possible extent to assure widescale compliance with the Act.

The bill was signed into law on October 26, 1970, to become effective in 180 days, or April 26, 1971.

Two weeks later, on May 10, 1971, the Church League of America of Wheaton, Ill., received correspondence from the Federal Trade Commission, Bureau of Competition, captioned "Re Credit Re-

porting Industry, File No. 711 0613," over the signature of William M. Sexton, attorney. Attached to the FTC letter was a list of 11 questions, or interrogatories, covering every facet of the league's business operations, income, contracts, and so forth.

The executive secretary immediately replied that the FTC inquiry was not applicable to the Church League of America, a tax-exempt organization with an educational status.

Who is to make the final determination as to whether the Church League is a credit reporting industry? The FTC is to be given full freedom for a fishing expedition and then determine the law inapplicable? Is it really the information that is sought or to spy on just what the league does?

Contemporary reports are suggestive that the FTC is being encouraged to use its hypothetical power to use regulations to extend its power to destroy educational, religious, and research organizations which may or may not retain and store credit documentation; for example, the May 14, 1971, group research report contains the following comment:

NEW LAW MIGHT CURTAIL FILES OF RIGHT-WING

The *AFL-CIO News* reports that the consumer protection law which went into effect April 25th might have the side impact of curtailing "a group of vigilante-type, extreme right-wing organizations that peddle dubious 'investigative reports' to employers who want to screen out 'radicals' and 'troublemakers.'"

The labor paper named the American Security Council and Church League of America as two large groups which might be so affected.

The new law gives potential borrowers—and, possibly, employees—a chance to confront reporting agencies with derogatory information about themselves.

If this is an example of how the Consumer Credit Protection Act is to be used, then it is most obvious that its purpose is not to relieve consumers of invasions of privacy but rather to destroy any and all documentation and dossiers—not because of their use as credit gages—but to eliminate the records of subversive and Communist activities in our country.

Thus far the harassment is confined to pro-American, constitutional, conservative organizations inasmuch as the leftwing clippers and documentation receptacles such as the ADL, Group Research and Institute of American Democracy are not heard to complain about ordered compliance as credit-reporting agencies. To the contrary, they seem to have the controlling hand, calling the signals, and are gloating over this obvious attempt to destroy a basic safeguard in our country—the right to privacy of other Americans.

I insert the letter from the Federal Trade Commission, its enclosures and the reply by the executive secretary of the Church League at this point:

FEDERAL TRADE COMMISSION,
Washington, D.C., May 10, 1971.

Re Credit Reporting Industry, File No. 711 0613.

CHURCH LEAGUE OF AMERICA,
Wheaton, Ill.

GENTLEMEN: This office is in the process of investigating the credit reporting industry. In order that the Commission may have authoritative information, and pursuant to its responsibility under the statutes from which its powers are derived, you are requested to furnish the following information within 30 days from the date hereof.

Each answer should identify the question to which it is addressed. If you are unable to fully answer any question, give such information as is available to you, and explain why your answer is incomplete and the source from which a complete answer may be obtained. If books and records which provide accurate answers are not available, enter your best estimates and indicate the sources or bases of your estimates. Estimated data should be followed by the notation "est." Where documents are supplied, please mark the number of the question in response to them as exhibits 1, 2, 3, . . . , prefixed by the number of the question in response to which the document is submitted (e.g., "Ex 2(a)1").

1. State the correct name, address, and date and state of incorporation of the reporting company.

2. State the name, title, ownership interest (if any), and business background of all officers and senior management personnel of the reporting company.

3. State your company's annual volume of reporting business for calendar years 1965, 1967 and 1969 on the form attached.

4. State your company's net profit (loss) in the sale of each of the types of reports listed in question no. 3 for each of the calendar years 1965, 1967 and 1969, on the form attached.

5. State the total annual volume of reporting business (as in question no. 3) in each of your company's geographic sales areas. Data is to be submitted by state or region of operations for each of the calendar years 1965, 1967 and 1969, utilizing the attached forms or copies thereof.

6. List all competitors that prepare personnel, insurance, and/or mortgage reports and that compete on at least a state-wide basis with your company. Indicate the geographic areas in which each of these companies competes with your company. List the types of reports prepared by each such competitor.

7. Submit schedules of services and prices for the period 1960 through 1969 for your company and each subsidiary or affiliate engaged in personnel, credit, and/or insurance reporting.

8. Submit your company's annual reports or balance sheets and profit and loss statements if annual reports were not made for each year 1965 through 1970.

9. Submit copies of all registration statements, proxy statements and prospectuses issued since 1960.

10. Submit samples of all standardized reporting forms.

11. Submit samples of all agreements and contracts used between your company and its customers.

You are invited to furnish any additional information concerning your operations in the credit reporting industry which in your judgment appears appropriate.

Any questions you have concerning this inquiry should be directed to Economist Ronald W. Phelon, Federal Trade Commission, Washington, D.C. 20580 (Area Code 202-Telephone 962-2731).

Very truly yours,

WILLIAM M. SEXTON,
Attorney,
Bureau of Competition.

Enclosure.

FORM TO BE USED TO RESPOND TO QUESTION 3

	1965		1967		1969		1965		1967		1969	
	Number	Dollar volume										
Total reports.....												
Personnel report.....												
Mortgage report.....												
Insurance report.....												
Total.....												
Life insurance.....												
Auto insurance.....												
Health insurance.....												
Workman's compensation.....												
Other (specify).....												
Tenant reports.....												
Claims reports.....												
Motor vehicle reports.....												
Bond reports.....												
Other (specify).....												
Credit reporting.....												
File report (oral or written).....												
Updated file report (oral or written).....												

FORM TO BE USED TO RESPOND TO QUESTION 4

	1965		1967		1969		1965		1967		1969	
	Profit/loss (minus)											
Total reports.....												
Personnel report.....												
Mortgage report.....												
Insurance report.....												
Total.....												
Life insurance.....												
Auto insurance.....												
Health insurance.....												
Workman's compensation.....												
Other (specify).....												
Tenant reports.....												
Claims reports.....												
Motor vehicle reports.....												
Bond reports.....												
Other (specify).....												
Credit reporting.....												
File report (oral or written).....												
Update file report (oral or written).....												

FORM TO BE USED TO RESPOND TO QUESTION 5

(State or region of operations)

	1965		1967		1969		1965		1967		1969	
	Number	Dollar volume										
Total reports.....												
Personnel report.....												
Mortgage report.....												
Insurance report.....												
Total.....												
Life insurance.....												
Auto insurance.....												
Health insurance.....												
Workman's compensation.....												
Other (specify).....												
Tenant reports.....												
Claims reports.....												
Motor vehicle reports.....												
Bond reports.....												
Other (specify).....												
Credit reporting.....												
File report (oral or written).....												
Updated file report (oral or written).....												

MAY 13, 1971.

Mr. WILLIAM M. SEXTON,
Attorney, Bureau of Competition, Federal
Trade Commission, Washington, D.C.

DEAR SIR: Reference your letter dated
May 10, 1971 and addressed to this head-
quarters, regarding Credit Reporting Indus-
try, please be advised that this inquiry is
not applicable to the work of the Church
League of America.

We are a tax exempt organization with an
educational status operating under the au-
thority of the United States Treasury De-
partment, Division of Internal Revenue
Service, Code 501(c)3.

We have met all tests of the Internal Re-
venue Service concerning our operations.

Very truly yours,

EDGAR C. BUNDY,
Executive Secretary.

**MR. VOLPE'S SURPRISING
ACHIEVEMENTS**

(Mr. MORSE asked and was given
permission to extend his remarks at this
point in the RECORD and to include ex-
traneous matter.)

Mr. MORSE, Mr. Speaker, Wall Street
Journal correspondent Albert R. Karr
has written an excellent article about
a distinguished citizen of Massachusetts,
my State, Secretary of Transportation
John A. Volpe. Mr. Karr entitled his
piece "Mr. Volpe's Surprising Achieve-
ments."

Citizens of Massachusetts are delighted
with this analysis of John Volpe's ac-
complishments, but we are not at all
surprised. We have learned to expect
such things from a man we three times
elected Governor.

During his period in the Governor's
chair, John Volpe established an out-
standing record in civil rights, consumer
protection, natural resources, cultural re-
sources, and conservation. He also set
many precedents in the State of Massa-
chusetts in education, public health,
mental health, economic development,
and many other areas of public concern.

It is clear from Mr. Karr's account
that the voters in Massachusetts were
fully justified in their repeated endorse-

ments of John Volpe's record. As Sec-
retary of Transportation, he has contin-
ued to attack public problems with
imagination and dispatch. Among the
many achievements of John Volpe as
Secretary of Transportation which Mr.
Karr cites are the upgrading of mass
transit, the creation of a national rail-
road passenger system—Amtrak—and,
the use of hitherto sacrosanct highway
trust fund money for safety and other
new programs.

In dealing with technical problems,
John Volpe does not forget the human
factors involved. Speaking of Secretary
Volpe's belief that the successful man
should remember to turn around once
in a while to give a helping hand to those
below, Mr. Karr notes that there are
now 20 blacks in the Department of
Transportation's supergrade jobs; be-
fore John Volpe there were none. And
Aaron N. Henry, head of the NAACP's
Mississippi unit, credits John Volpe's
persuasion for the fact that the Mis-
sissippi Highway Department, formerly

all white, now has at least 30 percent black employees.

The story of John Volpe's own career, in fact, causes one to wonder if any one of Horatio Alger's heroes should really be considered a success by comparison. The son of Italian immigrants, Secretary Volpe upon completion of high school went to work as a plasterer's apprentice. After attending night school for 2 years, in 1933 he borrowed \$200, cashed in a \$300 insurance policy, and started his own business. It was characteristic of John Volpe that in 1943 he closed his hard-won enterprise to enlist in the Civil Engineer Corps—Seabees—of the U.S. Navy. After the war he started his business again, and built it into a major construction company until public service required him to give up active direction. He severed all ties with the company when he assumed his Cabinet responsibilities in 1969.

I include Mr. Karr's fine article on this distinguished citizen of the Bay State at this point in the RECORD:

MR. VOLPE'S SURPRISING ACHIEVEMENTS

(By Albert R. Karr)

WASHINGTON.—Not long ago John Volpe was handing out a medal to a rather remarkable man who used to test the effects of deceleration by catapulting down a track on a rocket-powered sled. The sled would roar to 632 miles an hour, then stop within two seconds.

Looking up from the middle of a formal citation, the Transportation Secretary couldn't suppress a comparison. "Sometimes," he said, "we in the administration have to decelerate faster than that."

It was a wry admission that Mr. Volpe, a hard-driving man who wants very much to leave his mark on the nation's transportation system, can't always sell his ideas to the President or the stolid aides who surround him. But that is a common problem for the Nixon Cabinet. The significant thing about Mr. Volpe is not in his setbacks—and there have been embarrassing ones—but in some major achievements that have surprised critics and supporters alike.

Mr. Volpe, a three-time Massachusetts governor who has also been Federal Highway Administrator and Massachusetts public works commissioner, initially was regarded by critics as a narrow, roadbuilding fanatic who would try to pave over the country. Instead, he was irritated by the highway lobby by killing disruptive projects and increasingly emphasizing mass transit. And in an administration more conservative and less programmatic than its predecessors, he has probably produced more new programs than any other Cabinet member, a number of them liberal measures. Among them: mass transit upgrading, a national railroad passenger system, or Amtrak, and the use of hitherto sacrosanct highway trust fund money for safety and other new programs.

This success is partly a fortuitous coincidence of Mr. Volpe's predilections and White House politics, because it is true that the Nixon administration is more open to programmatic experimentation in transportation than, say, civil rights or help for the cities. But it also reflects some personal attributes of Mr. Volpe: a deep social concern, a toughness combined with diplomacy and painstaking care in building up support. Moreover, in an administration that sometimes seems to value loyalty above all else, Mr. Volpe is the ultimate team player.

WILLING TO COMPROMISE

Intense, energetic Mr. Volpe, 62, fights hard for his programs, but the bouts are strictly intramural. Not for him are Walter Hickel's martyrdom or George Romney's public pronouncements that sometimes take

him further than the administration wants to go. Mr. Volpe prefers to survive, to compromise, to chip away at opposition gradually if he has to. When the White House hits the brakes Mr. Volpe decelerates. And if it so orders, he'll champion positions he privately opposes.

That's what happened to the Secretary's plan for auto insurance reform. Central to his concept were federal standards, possibly backed up by pressure on the states to conform through a mandatory effective date or federal penalties. The White House opposed legislated standards, and Mr. Volpe abandoned the concept on the eve of testimony before a Senate committee. Instead, he suggested that Congress merely pass a resolution urging the states to act. (Responding to a Congressman's question in a House hearing later, however, Mr. Volpe said he wouldn't object to federal auto-insurance standards, as long as outright federal regulation were avoided.)

Another time, asked whether he concurred in a White House budget holddown he had strenuously resisted, Mr. Volpe replied: "Once the decision has been made, it's Transportation Department policy."

But the Secretary doesn't give up until policy is set, and his fight for Amtrak is a case in point. Key presidential aides opposed the plan, and at one point it took a heated outburst even to get Mr. Volpe past them and inside Mr. Nixon's office. Then, he says, "It took me about six minutes" to sell his argument. Later, Mr. Volpe threatened to resign if Mr. Nixon sided with the advisers who were urging him to veto the legislation.

Straightforward to the point of bluntness, Mr. Volpe meets most issues head-on. He has angered the potent highway lobby by stopping highway projects before they could rip through parks, historic areas and neighborhoods, and by warning that "excessive dependence on the auto" poses the "threat of urban suicide." He bruised egos by issuing a highway-safety "report card" that ranked states from "A" to "D." Alabama and Illinois each got three "Ds" and the Secretary noted some "retrogression" nationwide. "Only a Republican ex-governor can get away with what he tells industry and governors to do," an associate declares.

A major caveat to the Volpe record, however, is that most of the programs he has backed so far have simply involved spending more money to attack generally accepted needs, with the support of most interest groups involved. It was apparent even before Mr. Nixon took office that an expanded mass-transit program would be tremendously popular, for example. The administration has no fondness for the highway lobby, a fact that gives Mr. Volpe some latitude; and from the lobby's point of view, Mr. Volpe's positions thus far, while annoying, haven't substantially cut the amount of money available to highway building. "It's true that we've worked with the easy ones," one department official admits.

TOUGH BATTLES AHEAD

But the crunch is coming. Mr. Nixon's revenue sharing plan challenges the highway and airport lobbies in a fundamental way, since it would allow states to spend money in those two trust funds for any transportation purpose they desire. As a key salesman for this aspect of the plan, Mr. Volpe must confront the two lobbies and their substantial power on Capitol Hill.

In his first year in the job Mr. Volpe lost an intra-administration battle for mass transit, failing to win backing for a trust fund he proposed. But if revenue sharing fails, he'll revive another plan that would also boost mass transit: a "transportation trust fund" that would allow states to divert money in the highway and airport trust funds to other transportation purposes. This plan, like revenue sharing, would certainly arouse bitter opposition.

Originally a Rockefeller backer in 1968,

Mr. Volpe was persuaded by advisers to climb aboard the Nixon bandwagon while he still had a chance. He did, and for a time was thought to be in the running for the Vice Presidency. After the election, he sought an administration job in an activist department, specifically Health, Education and Welfare or Housing and Urban Development. Ironically, the Secretaries of those two departments have found their activism repeatedly stifled by White House political considerations while Mr. Volpe, in a job he didn't particularly seek, has been relatively free to make his mark.

It's a task he gives almost undivided attention. Up most mornings by five, Mr. Volpe usually attends an early mass and heads for his office and a workout on the stationary bicycle. Then he plunges into work, rushing in and out of his office with brow furrowed. Mr. Volpe lacks a college degree, but aides say he's quick to see the significance of an issue and prefers quick, "Harry Truman" type decisions to agonizing and intellectualizing. He seldom gets away before 7, and even then usually packs along two bulging briefcases for work far into the night.

He has grown steadily into the job. More favorable to highways at first, he now says his Washington experience has made him "much more acutely aware" of the need for balanced transportation systems. In the process, he has converted skeptics. Declares a former transportation official in the Johnson administration: "If Nixon would listen to Volpe more often, he'd be ten times better off."

The Secretary seemingly views his job as the capstone to his political career and, accordingly, is particularly keen on programs that show visible accomplishment. He would like to get an air-cushion vehicle transit line going somewhere in the country, for example, but so far attempts in Los Angeles and Washington have fallen through. He would also like to leave office with a major reduction of highway deaths to his credit. So when he came across a newspaper clipping describing the inflatable air bag for automobiles two years ago, he quickly dashed off a memo directing his highway safety people to get cracking on an air bag program.

Devoutly religious, Mr. Volpe often interjects "the dear Lord" into press conferences and casual conversation. He eschews alcoholic beverages (his favorite drink is tea laced with honey), and will sometimes make a point by beginning: "If I were a gambling man—which I'm not—I'd bet that . . ." Nevertheless, aides say, he can be quite profane when angered, and his anger can flare quickly when an underling turns in a poor performance. Fortunately, they add, he doesn't hold grudges.

The son of Italian immigrants, Mr. Volpe worked as a hod carrier and plasterer's apprentice, eventually turning a \$500 stake into a thriving construction business. He's fond of relating how his father told him that, like other members of minority groups, he would have to climb the ladder one step at a time, and on his own. But in telling that story, Mr. Volpe usually admonishes those working for him to "remember to turn around once in a while to give a helping hand to those below you."

Translating this philosophy into action, Mr. Volpe has emphasized jobs for blacks, earning the administration some credit in a field where it generally draws criticism. There are now 20 blacks in the department's "supergrade" jobs; before Mr. Volpe there were none. And Aaron N. Henry, head of the NAACP's Mississippi unit, credits Mr. Volpe's "persuasion" for the fact that the Mississippi Highway Department, formerly all white, now is at least 30% black. Clarence Mitchell, the NAACP's Washington representative, says he's "ahead of most people in the administration."

Some of Mr. Volpe's initiatives, however, have bogged down in the conservative, slow-moving bureaucracy he inherited. Thus,

Mr. Volpe has declared that no highway or other federal transportation projects will be authorized until suitable relocation housing is built or assured. But the Federal Highway Administration, traditionally an entity unto itself, has moved so slowly on this that one civil rights expert calls its performance "terrible."

Apparently recognizing this problem, Mr. Volpe last week announced new regulations designed to enforce his relocation-housing policy. They include a requirement that federal-aid projects causing displacement have a local relocation-assistance office to help displaced persons find new homes.

CONGRESSIONAL GOOD MARKS

The Secretary gets better marks on Capitol Hill, where he often goes to do some personal lobbying instead of leaving that task to subordinates. During the final stages of the administration's effort to push the SST—a project that the Secretary personally supported—he talked at length with lawmakers, focusing on freshmen Congressmen. He's quick to adapt his tactics. Trying to sell a new highway funding approach last year, he began by working through the Republican members of a Senate committee. But when a staff man for the Democrats telephoned to suggest that Mr. Volpe deal with them as well, he dispatched a bevy of experts to the Hill within the hour.

Mr. Volpe's intense, driving approach has brought him to the point of frequent, though not major, health problems, and one hard-pressed aide, a Washington veteran, says he has "never worked for anyone so aggressive and so decision-oriented." Nevertheless, Mr. Volpe laughs easily, frequently at himself, and loves to tell homely, self-deprecating stories.

One favorite concerns the time he was stuck in a long line of airliners waiting to take off, and impatiently asked the captain to inform the tower controller that his boss, the Secretary of Transportation, was aboard. Back, Mr. Volpe says, came the controller's reply: "My regards to Mr. Volpe, but he's still 19th in line."

ACCOMPLISHMENTS OF THE EXECUTIVE COMMITTEE OF THE INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION

(Mr. MAYNE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MAYNE. Mr. Speaker, it was recently my privilege to attend the 27th special session of the executive committee of the Intergovernmental Committee for European Migration—ICEM—as a member of the American delegation. The meeting was held at the Committees' headquarters in Geneva, Switzerland on May 11 and 12. I was most favorably impressed by the work of the Committee, which provided transportation for and assisted in the resettlement of more than 70,000 refugees during the past year.

An especially noteworthy contribution was made to this session by the American delegation led by the highly capable Frank L. Kellogg, Special Assistant to the Secretary of State for Refugees and Migration. Ambassador Kellogg had just completed an inspection tour of refugees camps in Italy and Austria and had met with officials of those and other European countries active in refugee work. Upon his return to the United States, he included a very interesting report on these activities and the ICEM meeting in an address to the

Advisory Committee on Voluntary Foreign Aid here in Washington on May 14.

Under unanimous consent to revise and extend my remarks in the RECORD, I include the aforementioned speech:

REMARKS OF THE HON. FRANK L. KELLOGG, SPECIAL ASSISTANT TO THE SECRETARY OF STATE FOR REFUGEES AND MIGRATION

Chairman Taft, Members of the Advisory Committee, distinguished guests, fellow Americans all:

I am happy to be with you this morning to join in your 25th Anniversary and to pay tribute to the remarkable achievements of your Committee and the voluntary agencies assembled here.

During this past quarter-century, you have been fortunate to have as your Chairman an outstanding American who has represented the best of our traditions of public service and social concern, Charles P. Taft. And there are others on the Committee who have served almost since its inception in 1946, for example Gordon Cairns, for 21 years, and Miss Margaret Hickey, for 17 years, giving freely of their time and talent to the work of the Committee.

I arrived back in Washington just a few hours ago more than a bit breathless from an intense and fast paced sprint thru Italy, Austria, the Netherlands, Switzerland, and home.

The purpose of my trip was two fold: to inspect Italian and Austrian refugee camps and to meet with foreign Government officials and the Voluntary Agencies who work in the European Refugee field; and to head the American Delegation of the 37th Special Session of the Executive Committee of the Intergovernmental Committee for European Migration. This was held in Geneva between May 10 and yesterday.

Let me tell you, all of this was an experience! A stimulating, exciting, exhausting, rewarding experience—worth every early morning rise and long hour.

May I tell you about it? And I hasten to add: *briefly!*

On arrival, I met with officials of the Italian Government (*Amministrazione per le Attività Assistenziali Italiane e Internazionali*) in Rome and discussed refugee and migrant problems with them and the ebb and flow of "the dispossessed" from East Europe thru Italy and its three refugee centers:

Trieste (where all the initial processing is done), and

Capua and Latina, near Naples, where the refugees are housed while they await clearance to the country of their choice for final settlement.

We Americans often think of ourselves and our nation as a leading force in humanitarian concerns—and indeed we are—but we should not discount the great efforts made by other countries of the Free World especially those that lie so much closer to the barbed-wire border of Eastern Europe. These nations have experienced at first hand, twice in our generation, the full horror of modern war and all the indescribable torment and attendant suffering. The people of these countries cannot forget or ignore, for a moment, the ideological conflict that divides our world into two armed camps. And so they comprehend, from close proximity, the full meaning of the plight of the refugee—torn from his homeland—leaving all behind including a part of his life—and all but a handful of his worldly possessions—grateful to have made his escape and for the shelter provided, in large measure, by Germany, Austria, Italy and the other nations of first asylum.

The Government of Italy spends \$2 million dollars in maintaining three refugee centers and providing the necessary rudimentary things for the escapees to begin a new life: clothes and food and shelter.

Beyond that, a language school to help bridge the gap, vocational training towards a better job, medical services, an occasional

movie, now and again a camp play by the children.

It is a life stripped to its essentials—believe me—but these people have known hardship and fear and they are grateful for what they receive. One Polish refugee tried to share with me his last Polish cigarettes brought from his homeland that nevertheless had treated him so badly.

Lunch that 1st day was an expression of good will extended to me by the Voluntary Agencies, American and International, your colleagues who are devoting their working lives to these human problems that concern us all. During our meal I heard a chilling story of a Jewish couple in Russia who—having waited 15 years for an exit permit—received it on the day before the outbreak of the "Six Day War". Their visa was cancelled and five more years passed before they could leave.

Later a meeting was held in the US Consulate with representatives of the private Voluntary Agencies, about fifteen of us in all. I need not tell you that these are the compassionate people who offer humanitarian assistance for human needs abroad. This informal meeting provided a valuable and provocative exchange of views and ideas. Monsignor Don Alfredo Bottizer—to give but one example—gave an eloquent—a ringing—description of problems at the *Trieste* camp and the imperative need to maintain his staff "like a fire engine station", he said, "ready for any emergency—to which can be added, as needed, the volunteers". In baroque Italian, he concluded: "someone always on duty to be ready for the alarm".

Another concern expressed by some of the Voluntary Agencies was the lack of young people coming along in the ranks to succeed the present staff. Lack of incentives—uncertainties of the profession—were among the problems cited. And this lack of succession, as you know, is a subject to concern us all if we are to keep Monsignor Bottizer's "Fire Station" on the alert!

That 1st day ended with an hour each with representatives of ICEM and the UNHCR and discussions of their accomplishments and problems.

"Up betimes to try the fair adventure of tomorrow", wrote Shakespeare, and a dawn start brought us to Camp Capua, two and a half hours along the Del Sol autoroute south of Rome. Here we saw about twenty very plain one story cement buildings that had been built for military stores sometime before World War II clustered around a central administration building. Since then, the camp had been used successively as an Allied and then Fascist prisoners-of-war camp and in recent years of course to house refugees seeking freedom, some assurance of security, and new opportunities—things we too often take for granted.

It is a stark place in a poor farming district that can provide little employment for the refugee during his usually 3 or 4 months stay at Capua. But it is clean, a new kitchen is replacing the old, and refugee children shout and play alongside their new Italian playmates. The Kindergarten is in perfect order—diminutive chairs and tables fill several rooms and youths exuberant hand-painted posters decorate the walls. Children, by nature's incredible design, seem even more resilient to hardship than their elders.

A new simple, but functional, prefabricated building, with modern heating and lighting, is nearing completion near the center of Camp Capua. It has been built with funds provided by the United States Refugee Program, a program administered by the Department of State. This building will provide better facilities for the Voluntary Agencies in their essential efforts to extend a helping hand to the refugee. Here, side-by-side, your experienced, dedicated, and patient fellow-workers will provide—as they have been doing for two decades—Counseling, Resettlement documentation, transpor-

tation, and a dozen other services to the uprooted and the dispossessed. Easy words to say . . . but difficult to fulfill. And each case is a human being in need and in want and in hope. Each must be handled by you on an individual basis.

The refugee, as you well know, selects the organization that best reflects his individual requirements; by ethnic background, by language, by religion. He has some eight or so voluntary organizations from which to choose. Among these are: World Council of Churches; Tolstoy Foundation; Polish-American Immigration Relief; Lutheran World Federation; International Social Service; International Rescue Committee and several more.

Also, of course, ICEM (Intergovernmental Committee for European Migration), the 31-nation Organization founded by U.S. initiative in 1951, whose principal function is to provide transport—initially within Free Europe—and then overseas for the final resettlement of the refugee and his family.

Again, this sounds easy but the mass transportation of some 70,000 refugees last year alone, involving countless details and massive paper work, represents a logistical problem of staggering proportions.

In addition to these Organizations, the United Nations High Commissioner for Refugees (UNHCR) has his representative in each of the Western European countries to ensure legal and political protection to the refugee—and these are essential and important safeguards which keep his staff ever on the alert.

The U.S. Government, through my office in the Department of State, is also deeply involved in this international "team" which sets an exemplary pattern in our troubled world. Our Government's effort is known as the United States Refugee Program. USRP enters into contracts with American and international agencies which, as a result, become the operating arms of our Government in assisting escapees from the Communist-dominated countries of Eastern Europe.

This, then, is a capsule picture of the "ladder" or "apparatus" by which the dispossessed are aided in their difficult transition and journey from persecution and injustice toward freedom and new opportunity.

Latina, 30 kilometers or about 2 hours northwest of Capua, a former military barracks, is more modern and hence less austere than Capua. Located in a prosperous suburb, job opportunities are available to both male and female refugees during their temporary sojourn here. This gives them "pocket money" and a chance to start saving to repay their travel loan if they have made one from a revolving fund made available through USRP.

At the time of our inspection, most of the 200 families then at Latina, not including children of course, were out working but we did talk to a dozen or more refugees and we did meet the staff who, by the way, impressed me as competent and dedicated.

I should tell you that Latina has the facilities, if necessary, to shelter more than a thousand refugees.

My travelogue now shifts to Vienna where, on the morning of the 5th, I was taken, along with Consular and Immigration officials, to visit Traiskirchen, the principal Austrian refugee center.

Our party was met by Dr. Krizek, Ministry of the Interior, whose government position is roughly equivalent to my own.

Traiskirchen was built before World War I as a military school—a smaller version, if you will, of West Point. Its central building is a 5-story structure quite imposing in its general appearance and architecture. It is a good climb to the top—up long flights of stone steps. Central corridors bisect each floor providing access to a series of high-ceilinged rooms. In one of these we were shown the plain but serviceable clothes that are available to each refugee together with toilet kits provided by the U.S. Refugee Program. These

kits contain a card bearing the American flag and a message:

"Given by the people of the United States."

We inspected a vast kitchen where a simple but nourishing meal was in preparation; a long dining hall, a chapel for religious services of many denominations; then we were shown a series of smaller 1-story buildings, former army barracks, now dormitories for refugee families. Several serviceable buildings are new, one of which was erected with USRP funds.

The Administration Building is a 2-story structure where the voluntary agencies have their offices—newly refurbished with the help of USRP. Here again the non-governmental private organization takes over the task of interviewing the refugee and filling out the many forms which become the "paper chain" leading to a new world. One of these is a "Curriculum Vitae," a detailed review of the refugee's life history. If he is to become one of the 48,000 refugees assisted by USRP during 1970, this record will end up in the central computerized file system maintained in the Geneva office of USRP. By means of this card, the refugee undergoes an intensive security check for criminal or political acts; it serves also as a record of his progress; and ultimately as the basis by which the voluntary agency is compensated by USRP for its contractual share of the expenses involved.

Why is all this complex mechanism necessary?

First, because if the escapee, often in peril of his life, is to be given a chance for freedom, the first asylum country (in this case Austria) must provide an immediate haven for food and shelter.

Second, the receiving country must know that other nations will not only open their doors to this special immigrant, but also share the burden of cost. Otherwise, the Iron Curtain border countries would have no alternative but to refuse the escapee.

Third, while the U.S. Government has traditionally had a sincere and intense interest in refugees and the alleviation of their suffering, by its very nature, it operates best at the governmental and political level. With a large and complex structure, the U.S. Government can never function as efficiently, effectively, or economically as the voluntary agency. These organizations, as you know, each with a separate character—a separate "raison d'être"—do a prodigious amount of work with a small number of personnel, local as well as American, and they have the benefit, too, of volunteer unpaid workers. They contributed, for example, some \$393 million of their own funds in over 100 countries in the past year—as well as medicine, food, clothing, and the services which I have already briefly described.

The voluntary agency greets the refugee in his own language and may well be of his same nationality and faith. They offer advice as to his future: Should he emigrate or stay in the country of asylum? What is his best visa opportunity? Where are his skills and interests most needed? And they guide him with experienced hands through the intricacies of the complex immigration forms.

Simultaneously, the voluntary agencies are busy in the countries of resettlement, Canada, Australia, the United States, and elsewhere, finding jobs and sponsors and preparing the way into a new community.

Voluntary agency assistance is a phenomenon of our time—a force of good will—indispensable—irreplaceable.

Here one can measure in tangible form compassionate human concern—one man for his brother—motivated spontaneously by the generosity and humanitarian instincts of the American people expressed through the complex mixture of groups and interests which comprise the American public.

Mr. Chairman: I am fully aware of the limitations of these remarks written a few hours ago high over the Atlantic. I full well know that I have hardly touched upon the

pandemic nature of the "tragedy of our time"—Africa, the Middle East, Southeast Asia, Pakistan. We are capable of reaching the moon, but our own world is racked by more than 17 million stateless, indigent people wandering homeless about the earth.

In closing, may I recall to you the words of President Nixon at another 25th Anniversary, that of the United Nations last October:

" . . . a peaceful competition not in the accumulation of arms, but in the dissemination of progress; not in the building of missiles, but waging a winning war against hunger and disease and human misery . . . around the globe . . .

"In this kind of competition, no one loses and everyone gains . . . Let us work together and dedicate ourselves to that goal."

AMERICAN PRISONERS OF WAR

(Mr. DENNIS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. DENNIS. Mr. Speaker, I call to the attention of the House that it has now been 7 years and 60 days that the enemy has been holding American prisoners of war and holding them in a manner contrary to all the laws of war and the dictates of humanity.

NOISE POLLUTION

(Mr. TIERNAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. TIERNAN. Mr. Speaker, in this day when pollution is acknowledged as one of our most serious problems, very little is being said or done about noise. Sixty years ago, Robert Koch, the famed bacteriologist and Nobel laureate, predicted—

The day will come when man will have to fight merciless noise as the worst enemy of his health.

It is a proven fact that aside from being a nuisance, excessive noise is a health hazard. And to the extent that our environment is becoming increasingly manmade, noise is likely to become even more pervasive and troublesome to our mental and physical health.

It is important that we act now to deal with the noise problem before it becomes a crisis. I have introduced H.R. 6002, the Noise Control Act of 1971. Both Chairman STAGGERS and Chairman ROGERS of the Subcommittee on Public Health and Environment have expressed their interest in holding hearings on this and the other noise abatement bills which have been introduced. It is my feeling that the House Interstate and Foreign Commerce Committee can and should become the leading force in America's effort to control noise.

At this point in the RECORD I would like to insert a copy of an article written by Andrew Blake which appeared in the Boston Globe, of May 20. This article indicates the very high level of noise found in the city of Boston.

IS RISING HUB NOISE GRATING YOUR NERVES?

(By Andrew Blake)

Noise.

What? I can't hear you.

A gray, concrete-mixing truck bellowed as it charged across the intersection of Devonshire and Summer streets like a bull elephant.

Noise deluged the ear, washing against the

outer "pinna" pouring down the auditory canal and exploding against the eardrum like surf crashing in a storm somewhere near the brain.

The red needle of a sound meter vibrated as it climbed steadily to a reading of 96 ear tingling decibels.

What? I can't hear you.

Humans can expect permanent ear damage when exposed to a sound level of 85 or more decibels over a period of years, can expect considerable pain at 130 decibels, and ruptured eardrums at 150 decibels.

A decibel is an arbitrary unit of measurement of sound output. Normal conversation runs about 50 to 60 decibels between two people in an average room.

Aside from physical damage to the ears, excess noise, and there's a lot of it around Boston, can increase blood pressure, cause nervousness, agitation, quick temper, slow reflexes, alter vision and cause loss of sleep which in turn can create a whole series of other problems.

Dr. Frank Hart, director of the acoustical studies center at North Carolina State University, predicts that unless noise levels are checked, by 1985 two people will not be able to talk on city streets unless they scream at each other.

With a sound meter, set on a scale with a sensitivity similar to that of the human ear, the Globe made a spot survey around Boston to discover some noisy and some quiet places.

The loudest and longest noise source recorded was at a place where you have to pay to enjoy the noise—a bar featuring live rock music where huge amplifiers throw out walls of crashing sound.

The decibel reading was up to 109, or about the same as being directly under a four engine commercial jet as it roars in for a landing at Orient Heights, near the Winthrop Bridge in East Boston.

At the bar, a club in Kenmore Square, the waitress had to scream to ask for the order while the drums, guitars, trumpet and lead singer belted out "Proud Mary" in super sound, pre amplified, amplified and ultra amplified until the sound could be felt as well as heard.

The jets at least, were coming in at intervals of about two minutes while the rock group's songs lasted about three minutes each with just a few seconds between songs.

Dr. John G. Dougherty of Harvard University and Dr. Oliver L. Welsh of Boston University have said: "What has passed unnoticed is that many noise levels encountered in the community exceed standards found injurious to industry."

Commuters at the upper level of the Park Street MBTA Station are treated to squealing trolley cars, some of which rounding a curve throw out an irritating 94 decibels—but at such a high pitch that it has the same effect on some people as a fingernail scraped along a blackboard.

On the lower level, trains come rushing in at 82 to 85 decibels. On the street above, there is a general background noise level of about 75 decibels, with a truck, motorcycle, bus or blowing horn sending the needle up into the noisy 90s.

For the thousands who commute to downtown Boston by rapid transit or car, the assault by sound is constant unless one steps into the relative oasis of quiet—Boston Common and the Public Garden.

Even the dimly lit, well padded cocktail lounges scattered throughout downtown do not compare, at least in terms of decibels, with the Common and the Garden.

But then, after a few cocktails most people don't seem to be bothered by noise anyway and a few insist on making it. Cocktail lounges averaged about 74 decibels with evening rush hour conversation.

Mick Jagger and the Rolling Stones average between 74 and 80 decibels on the home stereo.

Boston Common and the Public Garden were so quiet, the sound meter picked up the noise of footsteps but still failed to go over 60 decibels which is only 10 decibels higher than St. Anthony Shrine on Arch street.

A few blocks away, a fire engine, tearing its mechanical guts out as it screamed past Center Plaza with siren shrieking, kicked the red needle off the scale at 100 decibels.

All of which means that excess sound probably is contributing to a lot of sour faces, bosses snapping at their workers and motorists willing to fight it out in the middle of the street because of a horn blowing.

Studies in Germany, Sweden and Russia have shown that people working under noisy conditions have more ulcers and higher blood pressure than people working under more tranquil conditions.

Other studies in America, Italy and Russia have shown that people exposed to intense noise have a correspondingly higher rate of nervous disorders and impairment of higher brain function.

The motorist who leaps from his car to do battle when the car behind sounds its horn may be suffering from excess noise exposure.

Heightened overall tension and a lower tolerance to frustration are caused by repeated exposure to sudden, loud noises according to a study at the Russell Sage Foundation in New York.

Other studies in Russia and England conclude that noise slowed the reflexes of school children and children in classrooms near airports showed lower performance than those in other areas.

There are about 13 million people living near airports in the United States including Logan Airport in East Boston. The city of Boston has filed suit against the airlines and the Massachusetts Port Authority seeking to have classrooms near flight paths soundproofed.

Sections of East Boston and Winthrop are bombarded with noise at 96 to well over 100 decibels at two-minute intervals during takeoff and landings, depending on the wind direction and time of day.

Downtown intersections, such as Washington and School streets, with horn blowing, truck engines roaring and steel clanging from nearby construction, can run up to about 100 decibels.

Other studies have demonstrated that noise of 85 or more decibels may increase the number of errors made by people doing skilled work and all types of work appears to be affected at 90 or more decibels.

A drive to the tranquil suburbs isn't very good on the ear either. The motorist, sitting in the little sound chamber of his driver's seat, is taking in about 86 decibels at 65 miles per hour with the radio on. Without the radio, it's only about 6 decibels less.

By the end of the week, the average downtown Boston worker may feel that his or her head has been reduced to something like a bowl of Jello.

Then comes the weekend, far from the maddening crowd, and people feel they can't stand the deafening silence.

If the predictions of some scientists prove correct, some time in the future the ears of city dwellers will be about as useful for hearing as the little toe.

Then, with everyone equipped with hearing aids, they will be able to turn on and tune in to their favorite noise at will, while switching off the scream of jets and sirens and the roar of truck engines.

Can you hear me?

INCENTIVE RATE REGULATION

(Mr. TIERNAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. TIERNAN. Mr. Speaker, recently the Federal Power Commission introduced an entirely new concept in the history of this regulatory agency: incentive rate regulation. In so doing, it abandoned the traditional cost of service rate regulation of natural gas companies which Congress prescribed in the Natural Gas Act of 1938 in order to protect consumers.

On May 6, 1971, the Commission announced a 33½-percent increase in the rates which producers of natural gas in the Texas gulf area will be able to charge. The purpose of this decision, the FPC said, was to create "a new system of incentives to promote dedication of gas reserves to the interstate market." When we take a look at the meaning of the decision, what is behind it and how it is justified, then it begins to appear in its true form, a monumental assault on the public interest.

The decision becomes critical in the history of natural gas rate regulation since the FPC purportedly intends to embody this same philosophy of rate regulation in the southern Louisiana area rate proceeding which is presently pending before them. The southern Louisiana area is the largest gas-producing area in the Nation.

The FPC based its decision in the Texas Gulf case on the assumption that there was, and is, a gas shortage in this country. The Chairman of the FPC, John Nassikas, adopted this stance only 3 days after taking office, apparently as a result of 72 hours of intensive study of the situation. In fact, he has spoken out on this situation so often and so loudly that one wonders if the decision in the case was not a foregone conclusion, irrespective of any facts presented in the proceeding.

Many individuals and groups, among them the American Public Power Association, the American Natural Gas Association, and the Consumer Federation of America, have challenged this premise of a gas shortage. They point out that as early as 1955, the producers were asserting that there was a gas shortage in an effort to have themselves exempted from rate regulation. It is clear, in retrospect, that there was no gas shortage at the time.

Consider the impact, if you will, of the Texas Gulf decision on the public interest. The FPC designated the gas shortage claim as an issue in the proceeding, but did not compel the companies to produce data which would substantiate their claims. Thus, without even documenting what the natural gas reserves are, the FPC found it imperative to offer an incentive to the gas industry to promote further exploration. The Commission found that a 12 percent rate of return was not adequate and that a 15 percent rate was required.

History shows that the prices of coal and oil follow natural gas. Therefore, an increase in the cost of natural gas will affect the cost of the others. And, like any other rate increase, this will ultimately be reflected in the cost of natural gas to the consumer. In my own area of New England, this will particularly affect the cost of electricity which

is already out of proportion in comparison to the other areas of the country.

Mr. Speaker, the Federal Power Commission has a duty to the people of America and to the Congress to set rates which are "reasonable, nondiscriminatory, and just to the customer." This is the law as established in the Federal Code. The FPC has the burden of proof upon it to show the people that the Texas Gulf rate decision was and is justified.

I challenge the FPC to document its claim that there is in fact a gas shortage. If the Commission cannot or will not do this, then the Texas Gulf area rate decision must be reversed and Chairman Nassikas must be brought before this Congress for questioning.

[From the Wall Street Journal]

FPC LIFTS PRICE ON GAS PRODUCED ALONG TEXAS GULF—AGENCY CHARTS NEW COURSE AUTHORIZING BIG INCREASES, HOPES TO BOOST INCENTIVES—DECADE-OLD POLICY IS BROKEN

WASHINGTON.—The Federal Power Commission, charting a new regulatory course, authorized sharply higher prices for natural gas produced in the Texas Gulf Coast area and created additional incentives to bring gas into the interstate market.

The agency set a ceiling price of 24 cents for each 1,000 cubic feet of gas sold under contracts dated after Oct. 1, 1968, by far the highest price the commission has allowed in the course of its decade-old practice of setting gas prices according to the area where it is produced.

Prices for Texas Gulf gas produced under contracts dated between Jan. 1, 1961, and Sept. 30, 1968, range from 18 cents to 19 cents; the ceiling price for gas produced under contracts prior to 1961 is 15 cents.

In its unanimous opinion, the FPC said it hoped the "new price level will make the search for natural gas reserves in the Texas Gulf Coast area an attractive enough investment" to prompt more drilling and exploration.

SECOND-RANKING PRODUCTION AREA

The nation's second-ranking gas production area, after southern Louisiana, the Texas Gulf Coast stretches 450 miles from Louisiana to Mexico and includes both onshore and offshore wells. It supplies gas to the Southern, Midwestern and Eastern areas of the country.

The area contains a thriving local market for natural gas, and over the past few years large amounts of gas have been attracted by the unregulated intrastate market's higher prices.

Departing from its policy of concentrating primarily on the cost of producing gas when determining price, the FPC looked at the competing demand for gas and other economic factors in the Gulf Coast area and set prices it hopes are high enough to lure significantly more gas into the interstate markets, where shortages have occurred in some sections of the country.

The case, the fourth area rate case completed by the FPC, began in 1963. In 1968, an examiner recommended prices ranging from 13.3 cents to 17.4 cents each 1,000 cubic feet.

AREA GUIDELINE PRICES

Guideline prices for the area, set in 1961 when the area rate policy began, range from 14 cents to 16 cents, but many producers have been charging higher prices subject to refund. The FPC hasn't computed the amount of refunds owed.

The agency's decision establishes an incentive system that would allow producers to reduce their refunds by committing new gas reserves to interstate sale.

Refunds will be reduced by one cent for each 1,000 cubic feet of newly discovered gas dedicated to interstate sale between the present and Jan. 1, 1976. If a producer eliminates his refund obligation by pledging new

gas, he may then increase the price he can charge for gas sold under contracts dated prior to Oct. 1, 1968, by committing still more gas to interstate sale.

SIGNIFICANCE OF PLAN

Those ceiling prices could be increased by as much as two cents each 1,000 cubic feet if 10 trillion cubic feet or more of new gas is committed to interstate commerce.

The incentive plan is significant in two respects. First, it indicates that the commission may look favorably on a proposed agreement to set rates in southern Louisiana, the nation's richest gas production area. One element of that settlement, currently under FPC consideration, calls for a similar one-cent credit against the enormous refund obligations in that case for each 1,000 cubic feet of new gas committed to interstate sale.

The plan is also important because it gives producers the opportunity to increase prices of gas sold under old contracts. The idea is that by pledging more gas to the interstate market, producers can increase their cash flow and plow more funds back into exploration.

WILLINGNESS TO BOOST PRICES

The higher ceiling prices are based on a 15% rate of return on investment for producers in the area, up from the 12% rate the FPC had set for producers in other areas. The higher return is also expected to attract more investment to the area.

[From the New York Times, May 7, 1971]

TEXAS GULF GAS PRICE RAISED; COSTS HERE LIKELY TO INCREASE 33 1/3%

(By Philip Shabecoff)

Washington.—The Federal Power Commission set higher prices for Texas Gulf Coast natural gas today and established other incentives "to stimulate exploration for new natural gas supplies."

The unanimous opinion of the commission sets a ceiling of 24 cents a thousand cubic feet for natural gas, retroactive to contracts dated on or after Oct. 1, 1968.

This is the first time the commission has given a ceiling opinion for the Texas Gulf area, which accounts for about 18 percent of the gas sold in interstate commerce.

Previously, the commission established "guideline rates" of about 16 cents a thousand cubic feet for initial sales.

The Texas Gulf supplies natural gas consumers in New York, New England, the South and the Midwest. Observers here say today's decision is certain to mean higher prices to consumers amounting to millions of dollars.

Today's decision may also have an important bearing on a pending rate decision on the southern Louisiana gas fields, the country's biggest producing area, industry observers said.

The commission's opinion said past "dedications" of gas supplies from the Texas Gulf area had not been sufficient to replace "rapidly depleting" reserves. Interstate production has not been meeting the accelerating nationwide demand for gas, the commission stated.

It added that the "present critical shortage of all forms of energy in the United States and anticipated rapid growth of demand for natural gas make it imperative to provide incentives to find and dedicate gas to the interstate market.

The guidelines applied to gas prices until now did not necessarily reflect the prices that the producers were charging their customers. Some, in fact, may have been charging prices higher than the new ceiling.

In addition, the guidelines varied according to district and contract dates.

Producers that have been charging more than the ceiling prices set today will now have to make payments in refund. However, as an additional incentive for new exploration, the F.P.C. reduced their refund obligation by one cent per thousand cubic feet

of new gas dedicated to interstate commerce before Jan. 1, 1976.

HIGHER SALES SOUGHT

The commission said that if the Texas Gulf Coast was to meet its share of the national demand for gas, its sales must increase from present volumes of 8 trillion cubic feet to 12.5 trillion cubic feet for 1971 through 1975.

The opinion concluded that it is "appropriate and in the public interest to enhance the cash flow for gas producers to the extent permitted by their contracts and by today's order for the special purpose of stimulating further exploration and development," according to a statement by the commission.

The statement added that "in the light of current higher costs of capital and the need for additional incentives for investment in gas exploration, the F.P.C. found that a rate of approximately 15 per cent is just and reasonable for the Texas Gulf Coast new gas."

The commission said that the 12 per cent rate of return it found adequate in opinions for the Permian and southern Louisiana areas is not now adequate."

The gas producers have long contended that the rates they were receiving for gas under Federal regulation made it unprofitable for them to explore and develop new reserves.

However, consumer groups and industrial and utility users of natural gas have contended that the producers have been "sitting on" huge available reserves in order to force prices up.

Today's opinion by the commission seems to reflect the producers' point of view.

PERMANENT RAILROAD LAW IS NEEDED

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, the latest railroad strike again proved to us—as though we need any further proof—that it is long past time to enact permanent legislation improving the handling of national emergency labor-management disputes in transportation.

Many newspapers have commented editorially on this need but perhaps few have done so as succinctly as the Christian Science Monitor. Because the case for new legislation in this area is put so well by the Monitor, I include the paper's lead editorial of May 19, 1971, in the RECORD at this point. The editorial follows:

WANTED: A NEW RAILROAD ACT

Once again a nation of 200 million people has been victimized by a tiny fraction of its population, in this instance 13,000 railroad signalmen, who have manipulated a complex economic-political situation to gain a selfish advantage.

The strike that paralyzed the nation's railroads was called by only 2 percent of the 600,000-man railroad labor force. It cut off rail transportation for 650,000 commuters and 60,000 inter-city travelers, halted the vital transfer of 41 percent of the nation's freight, and threatened shutdowns of steel, automobile, and other major national industries.

Clearly a situation where so few can, for their own ends, cause so much disruption and impose such an economic cost on so many, is ethically insupportable. It should not be possible. And it would not be possible without tacit support of other interests.

The railroad industry itself, which has de-

liberately erected a monopoly situation over the decades, has allowed the unions to gain a strangle hold in which they cooperate. The signalmen could not effect a national rail shutdown without the consent of their railroading brethren. Finally, the Congress must take its share of blame for its failure, in the face of union opposition, to rewrite the outmoded Railway Labor Act and come up with some fundamental new legislation.

For more than a year the House Interstate and Foreign Commerce Committee has sat on permanent legislation requested by President Nixon. His emergency public interest protection act may not be the best, but it is better than nothing. Had it been enacted, for lack of a better solution, Mr. Nixon could have set up a three-man panel with authority to impose a final settlement on unions and management in the industry.

Granted, the signalmen may have a just grievance that they are underpaid relative to other rail unions. But their demand for a 54 percent pay increase over 36 months, or 18 percent a year, is outrageous in the face of the current inflationary crisis. It is made even more so by the fact that they turned down a management offer of 42 percent over 42 months, or 12 percent a year.

Congress has thus been forced into another emergency action situation, which is no answer at all to the basic challenge, that no tiny group of citizens, for whatever just cause, has a right to paralyze the nation. A new and workable railroad law is in order. Let the Congress see that it is done.

DEATH OF C. ED ALLEY, UPI PHOTOGRAPHER

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. GERALD R. FORD. Mr. Speaker, one of the most congenial and capable photographers ever to cover the Washington political scene has been taken by death.

C. Ed Alley became well known to Members of the House during the 20 years that he captured happenings on the Hill with his lens for UPI. Ed, with his friendly grin and his neatly trimmed mustache, was a familiar figure in Capitol corridors from 1948—the year I was first elected to Congress—until 1968. In 1968 Ed gave up his career as a UPI photographer because of a heart attack.

It was a second heart attack that took Ed Alley's life last Saturday.

After leaving UPI, Ed became an editor and columnist for a chain of northern Virginia newspapers. His folksy comment appeared under his byline in the Arlington News, the Crystal City News, the Pentagon News and Bailey's Crossroads News.

It should be mentioned that during his years with UPI Ed Alley covered the White House as well as the House of Representatives and edited the White House Photographers Association magazine. He won numerous prizes in the annual photo contest sponsored by the association.

I extend my condolences to Ed's wife, Carlyne, and his son, Edward. Ed will be missed by all who knew him.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mrs. MINK (at the request of Mr. BOGGS), for today and the remainder of the week, on account of official business.

Mr. PIRNIE (at the request of Mr. GERALD R. FORD), May 24 through June 3, on account of official business.

Mr. JOHNSON of Pennsylvania (at the request of Mr. GERALD R. FORD), for balance of week, on account of death in family.

Mr. FLYNT (at the request of Mr. AD-DABBO), for Tuesday, May 25, on account of official business.

Mr. MAZZOLI (at the request of Mr. BOGGS), for Monday, May 24, and Tuesday, May 25, on account of official business.

Mr. BROOKS (at the request of Mr. WRIGHT), on account of serving as an official delegate to NATO Interparliamentary Conference.

GENERAL LEAVE TO EXTEND

Mr. McKAY. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks and to include therein extraneous matter on the special order given today by the gentleman from Maryland (Mr. MITCHELL).

The SPEAKER. Is there objection to the request of the gentleman from Utah? There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SHOUP), to revise and extend their remarks and to include extraneous matter:)

Mr. MILLER of Ohio, today, for 5 minutes.

(The following Members (at the request of Mr. McKAY), to revise and extend their remarks and to include extraneous matter:)

Mr. ROSENTHAL, today, for 10 minutes.

Mr. FLOOD, today, for 30 minutes.

Mr. HÉBERT, today, for 10 minutes.

Mr. GONZALEZ, today, for 10 minutes.

Mrs. GRASSO, today, for 15 minutes.

Mr. MITCHELL, today, for 20 minutes.

Mr. RARICK, today, for 15 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GRAY in two instances.

Mr. EDMONDSON in three instances.

Mr. ANDERSON of Illinois (at the request of Mr. HORTON) today during the Committee of the Whole.

Mr. HECHLER of West Virginia in two instances, and to include extraneous matter.

(The following Members (at the request of Mr. SHOUP) and to include extraneous matter:)

Mr. SCOTT.

Mr. DEFWINSKI in two instances.

Mr. DON H. CLAUSEN.

Mr. LENT in 10 instances.
Mr. DUNCAN in two instances.
Mr. SCHWENGLER.
Mr. MAILLIARD in two instances.
Mr. MILLER of Ohio in 10 instances.
Mr. ESHLEMAN.
Mr. CEDERBERG.
Mr. SCHMITZ.
Mr. SMITH of New York.
Mr. GOLDWATER in two instances.
Mr. ANDERSON of Illinois in two instances.

Mr. SEBELIUS in two instances.
Mr. KEMP in two instances.
Mr. DENNIS.
Mr. HUNT.
Mr. MORSE.
Mr. CONTE.
Mr. MIZELL in three instances.

(The following Members (at the request of Mr. McKAY) and to include extraneous matter:)

Mr. EDWARDS of California.
Mr. LONG of Maryland.
Mr. DINGELL in three instances.
Mr. BEGICH in five instances.
Mr. CORMAN.
Mr. STUCKEY.
Mr. ROONEY of Pennsylvania in seven instances.

Mr. HÉBERT.
Mr. ANDERSON of California in two instances.

Mr. EDWARDS of Louisiana.
Mr. ALBERT.
Mr. HATHAWAY in two instances.
Mr. HUNGATE in two instances.
Mr. GONZALEZ in two instances.
Mr. GALIFIANAKIS.
Mr. DIGGS.
Mr. COTTER.
Mr. TEAGUE of Texas in eight instances.
Mr. DRINAN in five instances.
Mr. BURTON.
Mr. REUSS in six instances.
Mr. RARICK in three instances.
Mr. RONCALIO in two instances.
Mr. DANIEL of Virginia in two instances.

Mr. JACOBS.
Mr. DANIELS of New Jersey.
Mr. ROONEY of New York.
Mr. RYAN in two instances.
Mr. HAGAN in two instances.
Mrs. SULLIVAN.
Mr. BRASCO.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4209. An act to amend the Revised Organic Act of the Virgin Islands; and
H.R. 8190. An act making supplemental appropriations for the fiscal year ending June 30, 1971, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on May 24, 1971, present

to the President, for his approval bills and a joint resolution of the House of the following titles:

H.R. 5765. An act to extend for 6 months the time for filing the comprehensive report of the Commission on the Organization of the Government of the District of Columbia;

H.R. 8190. An act making supplemental appropriations for the fiscal year ending June 30, 1971, and for other purposes.

H.J. Res. 583. A joint resolution designating the last full week in July of 1971 as "National Star Route Mail Carriers Week."

ADJOURNMENT

Mr. CHAPPELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 21 minutes p.m.) the House adjourned until tomorrow, Wednesday, May 26, 1961, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

761. A letter from the Secretary of the Army transmitting a letter from the Chief of Engineers, Department of the Army, dated December 4, 1970, submitting a report, together with accompanying papers and illustrations, on Beals Creek, Big Spring, Tex., in partial response to a resolution of the Committee on Commerce, U.S. Senate, adopted August 4, 1936. It is also in response to the Flood Control Acts of June 22, 1936, August 26, 1937, and March 2, 1945 (H. Doc. No. 92-115); to the Committee on Public Works and ordered to be printed with illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BYRNE of Pennsylvania: Committee on Armed Services. H.R. 803. A bill to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button (Rept. No. 92-223). Referred to the Committee of the Whole House on the State of the Union.

Mr. FISHER: Committee on Armed Services. H.R. 7950. A bill to repeal sections 3692, 6023, 6025, and 8692 of title 10, United States Code, with respect to pilot rating requirements for members of the Army, Navy, Marine Corps, and Air Force; and to insert a new section 2003 of the same title (Rept. No. 92-224). Referred to the Committee of the Whole House on the State of the Union.

Mr. FISHER: Committee on Armed Services. H.R. 6483. A bill to amend section 5232 of title 10, United States Code, to provide authority for appointment to the grade of general of Marine Corps officers designated under that section for appropriate higher commands or for performance of duties of great importance and responsibility; with an amendment (Rept. No. 92-225). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRASER: Committee on Foreign Affairs. House Joint Resolution 617. Joint resolution to authorize an ex gratia contribution to certain inhabitants of the Trust Territory

of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of noncombat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission (Rept. No. 92-226). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 452. Resolution providing for the consideration of H.R. 7960. A bill to authorize appropriations for activities of the National Science Foundation, and for other purposes (Rept. No. 92-227). Referred to the House Calendar.

Mr. HOLIFIELD: Committee on Government Operations. H.R. 8011. A bill to amend the Wagner-O'Day Act to extend its provisions relating to Government procurement of commodities produced by the blind to commodities produced by other severely handicapped individuals, and for other purposes; with amendments (Rept. No. 92-228). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California:

H.R. 8680. A bill to amend the National Housing Act to authorize the insurance of loans to defray mortgage payments on homes owned by persons who are temporarily unemployed or whose income has been drastically reduced as the result of adverse economic conditions prevailing in an industry or area; to the Committee on Banking and Currency.

By Mr. ANDREWS of North Dakota:

H.R. 8681. A bill to create a National Agricultural Bargaining Board, to provide standards for the qualification of associations of producers, to define the mutual obligation of handlers and associations of producers to negotiate regarding agricultural products, and for other purposes; to the Committee on Agriculture.

By Mr. BADILLO:

H.R. 8682. A bill to amend the Social Security Act by providing for the establishment of a child advocacy program; to the Committee on Ways and Means.

By Mr. BEVILL:

H.R. 8683. A bill to establish an executive department to be known as the Department of Education, and for other purposes; to the Committee on Government Operations.

By Mr. BROYHILL of Virginia:

H.R. 8684. A bill to amend the Social Security Act by adding a new title to provide for the establishment of a system of review of medical and other health services rendered under titles V, XVIII, XIX, and XX of the Social Security Act; to the Committee on Ways and Means.

By Mr. BURLESON of Texas:

H.R. 8685. A bill to amend title XVIII of the Social Security Act to permit, in certain instances, the State health agency of a State to waive certain requirements relating to health and safety which must be met by hospitals in such State in order for them to participate in the insurance program established by such title, and to amend title XIX of such act to eliminate the life safety code of the National Fire Protection Association as the official standard for determining whether nursing homes meet health and safety standards; to the Committee on Ways and Means.

By Mr. HAYS:

H.R. 8686. A bill to create a National Agricultural Bargaining Board, to provide standards for the qualification of associations of producers, to define the mutual obligation

of handlers and associations of producers to negotiate regarding agricultural products, and for other purposes; to the Committee on Agriculture.

By Mr. HÉBERT (for himself and Mr. ARENDT):

H.R. 8687. A bill to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, 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; to the Committee on Armed Services.

By Mr. HELSTOSKI:

H.R. 8688. A bill to increase the appropriations for the fiscal year ending June 30, 1971, for certain medical care programs for veterans; to the Committee on Appropriations.

By Mr. HENDERSON:

H.R. 8689. A bill to provide overtime pay for intermittent and part-time general schedule employees who work in excess of 40 hours in a workweek; to the Committee on Post Office and Civil Service.

By Mr. KAZEN (for himself, Mr. FISHER, and Mr. PICKLE):

H.R. 8690. A bill to amend the Interstate Commerce Act, section 204; to the Committee on Interstate and Foreign Commerce.

By Mr. SPENCE:

H.R. 8691. A bill to amend the Voting Rights Act of 1965; to the Committee on the Judiciary.

By Mr. STAGGERS (for himself and Mr. SPRINGER):

H.R. 8692. A bill to amend the Federal Food, Drug, and Cosmetic Act, as amended, to require that the label of drug containers, as dispensed to the patient, bear the established or trade name, the quantity and strength of the drug dispensed; to the Committee on Interstate and Foreign Commerce.

By Mr. STEELE:

H.R. 8693. A bill to provide for the construction of a Veterans' Administration hospital of 350 beds in the county of New London, State of Connecticut; to the Committee on Veterans' Affairs.

By Mr. STEIGER of Arizona:

H.R. 8694. A bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Yavapai Apache Tribe in Indian Claims Commission dockets Nos. 22-E and 22-F, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WYATT:

H.R. 8695. A bill to amend title 38, United States Code, so as to provide that increases in social security benefits, railroad retirement benefits, and cost-of-living adjustments of civil service retirement annuities shall be disregarded under certain circumstances in determining eligibility for or the amount of dependency and indemnity compensation for dependent parents of veterans and non-service-connected pension for veterans and widows; to the Committee on Veterans' Affairs.

H.R. 8696. A bill to amend title II of the Social Security Act to increase the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 8697. A bill to make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

H.R. 8698. A bill to amend title 39, United States Code, as enacted by the Postal Re-

organization Act, to facilitate direct communication between officers and employees of the U.S. Postal Service and Members of Congress, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. CELLER (for himself, Mr. BROOKS, Mr. HUNGATE, Mr. JACOBS, Mr. MIKVA, Mr. ABUREZK, Mr. POFF, Mr. HUTCHINSON, and Mr. McCLORY):

H.R. 8699. A bill to provide an Administrative Assistant to the Chief Justice of the United States; to the Committee on the Judiciary.

By Mr. FOLEY (for himself, Mrs. HANSEN of Washington, Mr. McMILLAN, Mr. ULLMAN, Mr. McCORMACK, and Mr. TEAGUE of California):

H.R. 8700. A bill to authorize the Secretary of Agriculture to cooperate with and furnish financial and other assistance to States and other public bodies and organizations in establishing a system for the prevention, control, and suppression of fires in rural areas, and for other purposes; to the Committee on Agriculture.

By Mr. FOLEY (for himself, Mr. ULLMAN, Mrs. HANSEN of Washington, Mr. McCORMACK, Mr. WYATT, Mr. ADAMS, Mr. DELLENBACK, and Mr. McCLORE):

H.R. 8701. A bill to authorize the addition of certain Federal reclamation projects in the Pacific Northwest to participate in assistance from the Federal Columbia River power system, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. GRASSO:

H.R. 8702. A bill to provide for orderly trade in antifriction ball and roller bearings and parts thereof; to the Committee on Ways and Means.

By Mr. HANLEY (for himself, Mr. ROUSH, Mr. DANIELS of New Jersey, Mr. MAZZOLI, Mr. BRASCO, Mr. GIBBONS, Mr. RARICK, Mr. ROE, Mr. HOGAN, and Mr. KOCH):

H.R. 8703. A bill to provide for an equitable procedure for establishing congressional districts; to the Committee on the Judiciary.

By Mr. HUNGATE:

H.R. 8704. A bill to provide for the donation of surplus food commodities to local penal and correctional institutions, and for other purposes; to the Committee on Agriculture.

By Mr. KOCH (for himself and Mr. CAFFERY):

H.R. 8705. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

By Mr. MATSUNAGA:

H.R. 8706. A bill authorizing veterans' benefits for persons who served in the Local Security Patrol Force of Guam during World War II; to the Committee on Veterans' Affairs.

By Mr. MILLER of Ohio:

H.R. 8707. A bill limiting the use of publicly owned or controlled property in the District of Columbia, requiring the posting of a bond for the use of such property, and for other purposes; to the Committee on Public Works.

By Mr. MONAGAN:

H.R. 8708. A bill to extend the authority of agency heads to draw checks in favor of financial organizations to other classes of recurring payments, and for other purposes; to the Committee on Government Operations.

By Mr. NEDZI:

H.R. 8709. A bill to amend chapter 55 of title 10, United States Code, to provide maternity benefits for certain former members of the Armed Forces and certain dependents; to the Committee on Armed Services.

By Mr. PODELL:

H.R. 8710. A bill to amend title II of the Social Security Act to increase to \$750 in all cases the amount of the lump-sum death payment thereunder; to the Committee on Ways and Means.

By Mr. QUIE:

H.R. 8711. A bill to create a National Agricultural Bargaining Board, to provide standards for the qualification of associations of producers, to define the mutual obligation of handlers and associations of producers to negotiate regarding agricultural products, and for other purposes; to the Committee on Agriculture.

By Mr. RANDALL (for himself, Mr. HOLIFIELD, Mrs. DWYER, and Mr. WYDLER):

H.R. 8712. A bill to amend the act entitled "An Act to authorize any executive department or independent establishment of the Government, or any bureau or office thereof, to make appropriate accounting adjustment or reimbursement between the respective appropriations available to such departments and establishments, or any bureau or office thereof", approved June 29, 1966, so as to include within its coverage the government of the District of Columbia; to the Committee on Government Operations.

By Mr. SATTERFIELD:

H.R. 8713. A bill to amend part II of the Interstate Commerce Act in order to completely exempt certain farm vehicles and farm vehicle drivers from the provisions thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. SEBELIUS:

H.R. 8714. A bill to provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes; to the Committee on Agriculture.

By Mr. STAGGERS (for himself, Mr. SMITH of New York, Mr. KEE, Mr. WAMPLER, Mr. DENT, Mr. CARTER, Mr. MORGAN, Mr. SLACK, Mr. PRICE of Illinois, Mr. GRAY, Mr. SAYLOR, Mr. BEVILL, Mr. WHALLEY, Mr. SKUBITZ, Mr. CLARK, Mr. SATTERFIELD, Mr. STUCKEY, Mr. KUYKENDALL, Mr. JOHNSON of California, Mr. DULSKI, Mr. FULTON of Pennsylvania, Mr. MOLLOHAN, Mr. YATRON, Mr. ZION, and Mr. MELCHER):

H.R. 8715. A bill to establish a Commission on Fuels and Energy to recommend programs and policies intended to insure, through maximum use of indigenous resources, that the U.S. requirements for low-cost energy be met, and to reconcile environmental quality requirements with future energy needs; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself, Mr. BRAY, Mr. MURPHY of New York, Mr. FLOOD, Mr. MOORHEAD, Mr. MACDONALD of Massachusetts, Mr. ADAMS, Mr. PERKINS, Mr. MADDEN, and Mrs. HANSEN of Washington):

H.R. 8716. A bill to establish a Commission on Fuels and Energy to recommend programs and policies intended to insure, through maximum use of indigenous resources, that the U.S. requirements for low-cost energy be met, and to reconcile environmental quality requirements with future energy needs; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Florida:

H.R. 8717. A bill to prohibit commercial flights by supersonic aircraft into or over the United States until certain findings are made by the Administrator of the Environmental Protection Agency and by the Secretary of Transportation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ASPIN (for himself, Mr. ABUREZK, Mr. ADDABBO, Mr. BURTON,

Mr. BYRON, Mrs. CHISHOLM, Mr. CULVER, Mr. DANIEL of Virginia, Mr. DERWINSKI, Mr. DOWNING, Mr. EDWARDS of California, Mr. ESCH, Mr. FRENZEL, Mr. HALPERN, Mr. HOSMER, Mr. LUJAN, Mr. MANN, Mr. MAZZOLI, Mr. McCORMACK, Mr. MIKVA, and Mr. MITCHELL):

H.J. Res. 662. Joint resolution to create a select joint committee to conduct an investigation and study into methods of significantly simplifying Federal income tax return forms; to the Committee on Rules.

By Mr. ASPIN (for himself, Mr. MORSE, Mr. PRICE of Illinois, Mr. RANGEL, Mr. RIEGLE, Mr. ROYBAL, Mr. SARBANES, Mr. SCHEUER, Mr. SEIBERLING, Mr. TIERNAN, Mr. VEYSEY, and Mr. WARE):

H.J. Res. 663. Joint resolution to create a select joint committee to conduct an investigation and study into methods of significantly simplifying Federal income tax return forms; to the Committee on Rules.

By Mr. CHAPPELL (for himself, Mr. GIBBONS, Mr. PEPPER, Mr. HENDERSON, Mr. STEPHENS, Mr. UDALL, Mr. FLOWERS, Mr. SIKES, Mr. FULTON of Tennessee, Mr. BEVILL, Mr. EDWARDS of Alabama, Mr. MOSS, Mr. BARING, Mr. HATHAWAY, Mr. REES, Mr. BURKE of Florida, Mr. ULLMAN, Mr. FLYNN, Mr. TIERNAN, Mr. ANDERSON of Tennessee, Mr. RIEGLE, Mr. METCALFE, Mr. HARRINGTON, Mr. MATSUNAGA, and Mr. DULSKI):

H.J. Res. 664. Joint resolution relating to the war power of Congress; to the Committee on Foreign Affairs.

By Mr. CHAPPELL (for himself, Mr. RARICK, Mr. DICKINSON, Mr. LEGGETT, Mr. CHARLES H. WILSON, Mr. SYMINGTON, Mr. HICKS of Washington, Mr. RONCALIO, Mr. HALEY, Mr. RANDALL, Mr. DANIELSON, Mr. NICHOLS, Mr. MAZZOLI, Mrs. HANSEN of Washington, Mr. MILLER of California, Mr. DENHOLM, Mr. ST GERMAIN, Mr. EDWARDS of California, Mrs. CHISHOLM, Mr. MONTGOMERY, Mr. GAYDOS, Mr. FISH, Mr. MANN, Mr. ALEXANDER, and Mr. SEIBERLING):

H.J. Res. 665. Joint resolution relating to the war power of Congress; to the Committee on Foreign Affairs.

By Mr. PICKLE:

H.J. Res. 666. Joint resolution to place the question of approval of dimethyl sulfoxide (DMSO) for human use as a prescription drug before the National Academy of Sciences; to the Committee on Interstate and Foreign Commerce.

By Mr. BRADEMAS:

H. Con. Res. 319. Concurrent resolution to provide for the printing of 1,000 additional copies of the hearings before the Select Subcommittee on Education of the Committee on Education and Labor entitled "Comprehensive Preschool Education and Child Day-Care Act of 1969"; to the Committee on House Administration.

H. Con. Res. 320. Concurrent resolution to provide for the printing of 300 additional copies of the hearings before the Select Subcommittee on Education of the Committee on Education and Labor entitled "Environmental Quality Education Act of 1970"; to the Committee on House Administration.

By Mr. McCLORY:

H. Con. Res. 321. Concurrent resolution expressing the sense of the Congress with respect to the withdrawal of American troops from South Vietnam, and for other purposes; to the Committee on Foreign Affairs.

By Mr. WYATT:

H. Res. 453. Resolution creating a select committee of the House to conduct a full and

complete investigation of all aspects of the energy resources of the United States; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

193. Mr. RYAN presented a concurrent resolution of the Legislature of the State of New York memorializing the Congress of the United States to take all necessary steps to persuade the Government of Turkey to immediately destroy its opium poppyfields before the 1971 harvest in return for reimburse-

ment to its opium poppy farmers of the damages suffered thereby from funds appropriated for that purpose by the State of New York and the U.S. Congress, which was referred to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BEVILL:
H.R. 8718. A bill for the relief of John R. Poe; to the Committee on the Judiciary.

By Mr. O'NEILL:
H.R. 8719. A bill for the relief of Ulku Gurkan Silverman; to the Committee on the Judiciary.

By Mr. QUILLEN:
H.R. 8720. A bill for the relief of Kenneth C. Verran; to the Committee on the Judiciary.

By Mr. TEAGUE of California:
H.R. 8721. A bill for the relief of Cmdr. Joe R. Lacy; to the Committee on the Judiciary.

By Mr. UDALL:
H.R. 8722. A bill for the relief of 1st Lt. John P. Dunn, U.S. Army; retired; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

CHAPIN, S.C.

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, May 25, 1971

Mr. THURMOND. Mr. President, South Carolina is proud of its "lifestyle" and the people who make it that way.

In a time when the values of our forefathers are under daily attack, I am pleased to place in the CONGRESSIONAL RECORD an article which speaks about the really important things in life. Titled "The Purpose and Pride of Chapin," this article appeared in the May 17, 1971 issue of the Columbia Record, Columbia, S.C.

H. Harrison Jenkins, an associate editor of the Record, is the author of this article. He has written about a sports banquet held at Chapin, S.C., and takes note of the good things a small, rural community has to offer its citizens.

Mr. President, the "lifestyle" at Chapin and the meaningful story related by Presbyterian College Coach Cally Gault, are well presented by Mr. Jenkins. I ask unanimous consent that this article be printed in the Extension of Remarks.

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

THE PURPOSE AND PRIDE AT CHAPIN

(By H. Harrison Jenkins)

No laurel wreaths were there on the head table at Chapin High School last Friday night as the hardy townsmen of Carolina's fall-line community collected to honor young athletes. Instead, there were block C's for those young men and women who'd spent hours on the practice field and additional hours in moral, character-constructing competition.

No laurel wreaths, but the block C's, certificates of academic prowess, Ruritan awards, and big statues and little statues for singular contributions by young people to their school and community.

No laurel wreaths, but the ancient Greek spirit of honoring commitment by young men and women was there; omnipresent, along with the turkey and dressing and strawberry shortcake.

In contemporary Carolina, where it is fashionable to speak of "lifestyle," the lifestyle of the Chapin community is an honored page from the past—in which the intangibles of life still remain meaningful, useful and significant. Part of that heritage is the sense of community which binds people together; which unifies a community and compels each to do his or her part.

The Chapin Garden Club decorated the tables for the annual Athletic Banquet and the Eagle Club handled the organizational

labors. The people of Chapin, like those of other small communities, are rightfully proud of the athletic program at their school, ably led by Athletic Director Cecil Woolbright—a cordial gentleman with a leathery, smiling visage.

It seemed precisely the right thing at the right moment for a quite small young man, Donny Lindler, to receive the biggest trophy of the night, that of Outstanding Athlete. Tailback and a fierce tackler in football, second baseman and leadoff man in baseball, and a guard in basketball, Lindler was the biggest man of the night in desire, spirit, selflessness and pride.

No small wonder was it that the master of ceremonies and the principal speaker turned out to be two of the closest friends in Carolina's coaching clan, Newberry College's Fred Herron and Presbyterian's Cally Gault.

Coach Herron said, "For 364 days and 21-and-one-half hours out of every day, Coach Gault is a friend of mine. But for the other two-and-one-half hours, we don't do much communicating."

The Newberry-Presbyterian contests in athletics are among the warmest, yet most spirited, rivalries in our state's history. The two small, church-related colleges, their alumni and friends have good reason to hold their heads high in the clouds because of on-campus presence of coaches like Herron and Gault.

Three times "Coach of the Year" in this state, Cally Gault told a series of pleasing jokes, as had Fred Herron. And then Coach Gault spoke directly to the young people present about pride and purpose in life.

He told them about an obvious favorite of his, young Dan Eckstein, who'd been a Little All-America at PC and who barely missed being a Green Bay Packer. But the stories were of Dan's pride and purpose in his life.

Coach Gault related the story of a team bus-ride back from a scrimmage in North Carolina, with the weary squad singing songs and discovering that the mike on the bus worked. Calls were made for various athletes to sing: "Hey, sing 'The Wabash Cannon Ball.'" When they called for Dan, he sang, "not in a great voice, but a good one," a familiar hymn—"How Great Thou Art."

A few freshmen in the back who didn't know Eckstein, the son of a Salvation Army worker in Atlanta, sniggered. An upper-classman curtly shut them up.

"We became a team," said Coach Gault. "On that bus, that night." Dan had a purpose in life, as he has now, and the team became individually and collectively purposeful.

Coach Gault concluded with a story. He said, "If you come back a year from now, ten years from now, you'll hear me telling this same story. An auctioneer is selling his goods and he picks up an old fiddle and asks how much anyone will bid for the old fiddle.

"The bids are small. Five dollars. Ten dollars. Fifteen dollars. He's just about ready

to let it go for \$15 when an old gentleman arises at the rear, comes forward, picks up the fiddle and begins to play—beautiful music. The crowd is hushed.

"When he finished, the auctioneer picked up the fiddle and asks, 'What am I bid for this beautiful instrument?' And the bids go from \$100 to \$110 to \$115.

"The touch of the master's hand is the difference between an old fiddle and a beautiful instrument," said Coach Gault.

There can be pride, self-discipline and purpose in each life, regardless of race, creed or color. That's the message Cally Gault tried to convey; and not once did he mention "cognitive learning" and "affective learning." But the wholeness of man the wholeness of life were there.

Just as they were there, and remain in the lifestyle of the community of Chapin which honored its valued and valuable young men and women on a Friday night in Carolina.

FAIR CREDIT REPORTING ACT AMENDMENT TO EXEMPT JOINT USERS IN MORTGAGE FINANCING TRANSACTIONS

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 24, 1971

Mr. HANNA. Mr. Speaker, on May 5, I called to the attention of the House certain circumstances which were causing disruptions in the processing of FHA and VA mortgage applications. At that time, I reported that the circumstances involved certain provisions of the Fair Credit Reporting Act which had become operative on April 25.

The vagueness of the language has caused many banks and mortgage bankers to question their own legal position when processing credit information to a public or private mortgage insurer. In order not to violate the act, many of those involved in financing insured mortgages have either frozen, or have created elaborate but shaky procedures which have increased costs and have substantially inhibited the necessary flow of credit information.

In my May 5 speech I pointed out that this problem was created by the Congress. In our rush to put a new consumer statute on the books, a hastily considered measure was tacked onto the Foreign Bank Accounts Act. Today, I am bringing one of the problems created by that bill back to the Congress.

The measure I am introducing would exempt joint user transactions from the