tion or of any rule or regulation promulgated thereunder.

(h) LEGAL PROCEDURE; IMMINENT HAZARD TO PUBLIC HEALTH; JURISDICTION OF DISTRICT COURT; TEMPORARY INJUNCTIONS OR RESTRAINING ORDERS; BOND; FINAL ORDERS.—Whenever the Director has reason to believe that continuation of any activity by a blood bank licensed under this section would constitute an imminent hazard to the public health, he may bring suit in the district court for the district in which such blood bank is situated to enjoin continuation of such activity and, upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this section shall be granted without bond by such court.

(i) APPEALS; PETITIONS; RECORD; ADDITIONAL EVIDENCE; MODIFIED OR NEW FINDINGS; JURISDICTION OF COURT OF APPEALS; CONCLUSIVENESS OF FINDINGS; REVIEW BY SUPREME COURT.—

(1) Any party aggrieved by any final action taken under subsection (e) of this section may at any time within sixty days after the date of such action file a petition with the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Director or other officer designated by him for that purpose. The Director thereupon shall file in the court the record on which the action of the Director is based, as provided in section 2112 of title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Director, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Director, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Director may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Director as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such action of the Director shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(j) VIOLATIONS AND PENALTIES.—Any person who willfully violates any provision of this section or any rule or regulation promulgated thereunder shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine.

ADVISORY COUNCIL

SEC. 6. (a) ESTABLISHMENT.—There is established an Advisory Council to be composed of the following nine members appointed by the President:

(1) two representatives from each National Blood Bank System, one of whom shall be a person with not less than five years recent experience in blood bank administration;

(2) three representatives of blood consumer groups including:

(A) one hospital administrator,

(B) one representative of organized labor,

(D) one representative of business management; and

(3) two persons experienced in advertising and public relations neither of whom may be employed or retained during their service on the Council, by any firm or other organization which is engaged in operating a blood bank.

(b) DUTIES OF COUNCIL.—The Advisory Council shall—

(1) make recommendations to the Director with respect to long term policy goals for the National Blood Banks Program established under section 3 of this Act;

(2) make recommendations to the Director with respect to the encouragement of blood donation and the motivation, recruitment, and recognition of blood donors; and

(3) make recommendations to the Director relating to reciprocal transactions between National Blood Bank Systems to the extent that no agreement relating to such transactions exists between such Systems.

(c) TRAVEL EXPENSES; PER DIEM.—While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

ANTITRUST EXEMPTION

SEC. 7. Notwithstanding any antitrust law, as defined in section 2(a) of the Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311(a)), a National Blood Bank system may exclude or reject from membership in such System any blood bank which does not qualify for tax exempt status under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

BLOOD ASSURANCE PROGRAMS

SEC. 8. No person other than a blood bank which is classified as a "Class A Blood Bank" may maintain any program in which individuals deposit blood in advance of their need for blood or pledge to give blood upon request.

ADMINISTRATION OF PROGRAM

SEC. 9. No provision of this Act and no part of any program established under this Act shall be administered by or under the supervision of the National Institutes of Health.

PURCHASE OF BLOOD BY FEDERAL GOVERNMENT

SEC. 10. No agency, department, or other instrumentality of the Government of the United States shall contract for or pay for the provision of blood from any person other than a "Class A Blood Bank" and such agency, department, or other instrumentality shall take such measures as may be necessary to insure that such blood has been tested according to the best available test for hepatitis.

DEFINITIONS

SEC. 11. For the purposes of this Act, the term—

(a) "Blood" means human whole blood, or any component thereof.

(b) "Blood Bank" means any person or other entity engaged in the bleeding of individuals and performing two or more of the following functions—

(1) recruitment of blood donors;

(2) processing of blood for transfusions;

(3) storage of blood;

(4) crossmatching of blood;

(5) administration of blood to individuals; or

(6) preparation of blood components for transfusion.

(c) "Blood Donor" means a paid blood donor or a voluntary blood donor.

(d) "Paid blood donor" means an individual who receives monetary compensation or an adjustment in his scheduled period of prison confinement for his donation of blood or any component thereof.

(e) "Voluntary blood donor" means any individual donating his blood other than a paid donor.

(f) "Accredited blood bank" means a blood bank accredited by a National Blood Bank System.

AUTHORIZATION

SEC. 13. There is authorized to be appropriated $10,000,000 for the Fiscal Year 1973, $10,000,000 for the Fiscal Year 1974, and $10,000,000 for the Fiscal Year 1975 to carry out the purposes of this Act.

SENATE—*Tuesday, November 23, 1971*

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

PRAYER

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

Eternal God, we thank Thee at this festival season for the good world Thou hast made; for things great and small, beautiful and awesome; for seen and unseen splendors.

We thank Thee for human life; for the variety of our skills and interests; for different ways of thinking and speaking.

We thank Thee for work to do; for useful tasks that need careful study and precise judgment; for the comradeship of daily toil; and for exchanges of good humor and encouragement.

We thank Thee for this place and the privilege it affords of service to our fellow citizens. Equip us with awareness of truth and strength of character so that what is done here may enable our Nation to be an instrument of Thy grace and a beacon of freedom to all men. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, November 22, 1971, be dispensed with.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 491 and 492.

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

RICHARD C. WALKER

The Senate proceeded to consider the bill (H.R. 3749) for the relief of Richard C. Walker, which had been reported from the Committee on the Judiciary with

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an amendment, on page 2, after line 17, insert a new section, as follows:

SEC. 3. (a) Section 98 of title 28 of the United States Code is amended to read as follows:

"§ 98. Louisiana

"Louisiana is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Louisiana.

"Eastern District

"(a) The Eastern District comprises the parishes of Assumption, Jefferson, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Tammany, Tangipahoa, Terrebonne, and Washington.

"Court for the Eastern District shall be held at New Orleans.

"Middle District

"(b) The Middle District comprises the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, Saint Helena, West Baton Rouge, and West Feliciana.

"Court for the Middle District shall be held at Baton Rouge.

"Western District

"(c) The Western District comprises six divisions.

"(1) The Opelousas Division comprises the parishes of Evangeline and Saint Landry.

"Court for the Opelousas Division shall be held at Opelousas.

"(2) The Alexandria Division comprises the parishes of Avoyelles, Catahoula, Grant, La Salle, Rapides, and Winn.

"Court for the Alexandria Division shall be held at Alexandria.

"(3) The Shreveport Division comprises the parishes of Bienville, Bossier, Caddo, Claiborne, De Soto, Natchitoches, Red River, Sabine, and Webster.

"Court for the Shreveport Division shall be held at Shreveport.

"(4) The Monroe Division comprises the parishes of Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll.

"Court for the Monroe Division shall be held at Monroe.

"(5) The Lake Charles Division comprises the parishes of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, and Vernon.

"Court for the Lake Charles Division shall be held at Lake Charles.

"(6) The Lafayette Division comprises the parishes of Acadia, Iberia, Lafayette, Saint Martin, Saint Mary, and Vermilion.

"Court for the Lafayette Division shall be held at Lafayette."

(b) The district judge for the Eastern District of Louisiana holding office on the day immediately prior to the effective date of this section, and whose official station on such date is Baton Rouge, shall, on and after such date, be the district judge for the Middle District of Louisiana. All other district judges for the Eastern District of Louisiana holding office on the day immediately prior to the effective date of this section shall be district judges for the Eastern District of Louisiana as constituted by this section.

(c) (1) Nothing in this section shall in any manner affect the tenure of office of the United States attorney and the United States marshal for the Eastern District of Louisiana who are in office on the effective date of this section, and who shall be during the remainder of their present terms of office the United States attorney and marshal for the Eastern District of Louisiana as constituted by this section.

(2) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and marshal for the Middle District of Louisiana.

(d) The table contained in section 133 of title 28 of the United States Code is amended to read as follows with respect to the State of Louisiana:

"Districts	Judges
* * * * *	
"Louisiana:	
"Eastern	9
"Middle	1
"Western	4".

(e) Section 134(c) of title 28 of the United States Codes is amended by deleting the first sentence.

(f) The provisions of this section shall become effective one hundred and twenty days after the date of enactment of this Act.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An Act for the relief of Richard C. Walker and to create an additional judicial district in the State of Louisiana."

RIVER BASIN MONETARY AUTHORIZATIONS AND MISCELLANEOUS CIVIL WORKS AMENDMENT ACT OF 1971

The bill (S. 2887) authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes, was announced as next in order.

Mr. SPONG. Mr. President, on behalf of the city of Alexandria and the county of Arlington, I wish to thank the Public Works Committee for including in the bill a provision which will relieve these financially hard-pressed communities of a portion of the cost of the Four Mile Run flood control project in the Arlandria community of northern Virginia.

Specifically, the bill allocates as a Federal responsibility the cost of replacing the George Washington Memorial Parkway bridge over Four Mile Run. This will mean a savings of an estimated $1,008,000 to Alexandria and Arlington.

Transferring the cost to the Federal Government is in accord with the recommendation of both the Department of Interior and the Chief of Engineers.

In commenting on the project in a letter dated January 23, 1970, to the Chief of Engineers, the Department of the Interior observed that the George Washington Memorial Parkway is a Federal facility classified as part of the national park system, owned and operated by the National Park Service. The Department further stated:

> We believe it was an oversight in formulating the project to consider the Parkway facilities as a highway bridge not eligible for flood control funding. The Parkway should be treated as a federal facility wherein it could be eligible for appropriation for the flood control project. To this end, we recommend incorporating the Parkway replacement into your federal funding category for this project.

The Chief of Engineers in an interim report to the Secretary of the Army dated March 2, 1970, recommended that the bridge replacement be included in the Federal cost of the flood-control project.

The cost was assigned as a local responsibility in order to expedite the authorization and appropriation process last year. However, it is not fair to require local governments to pay for the replacement of a federally owned and maintained bridge. Accordingly, I requested the distinguished chairman of the Public Works Committee, Mr. RANDOLPH, and the distinguished chairman of the Flood Control Subcommittee, Mr. JORDAN of North Carolina, to reinstate the recommendation of the Interior Department and the Chief of Engineers.

I want to thank them publicly and the committee for giving favorable consideration to my request. I especially appreciate the quick action on this matter by the committee.

Mr. President, I would be remiss if I neglected to express again my disappointment that preconstruction planning has not moved more quickly on this urgently needed project. Responsibility for the delay rests with the Office of Management and Budget, which impounded from October 7, 1970, until July 1, 1971, the $170,000 appropriated by Congress for preconstruction planning in fiscal 1971.

Moreover, it was only belatedly that the administration requested $245,000 for the project in fiscal 1972. That amount has been approved by Congress.

I hope the budget request for fiscal 1973 will be in an amount sufficient to reflect an awareness by OMB that the Four Mile Run project is deserving of high-priority status.

The Corps of Engineers has advised that preconstruction planning can be finished in fiscal 1973 if adequate funds are provided. In a letter to me dated August 30, 1971, the corps estimated the total cost of planning at $1,015,000. This means that in the absence of any inflationary factor, $600,000 should be the amount of the budget request for fiscal 1973.

I would hope, of course, that the project can be sufficiently accelerated to justify an appropriation for actual construction in fiscal 1973.

The bill was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in addition to previous authorizations, there is hereby authorized to be appropriated for the prosecution of the comprehensive plan of development of each river basin under the jurisdiction of the Secretary of the Army referred to in the first column below, which was basically authorized by the Act referred to by date of enactment in the second column below, an amount not to exceed that shown opposite such river basin in the third column below:

Basin	Act of Congress	Amount
Alabama-Coosa River	Mar. 2, 1945	$38,000,000
Arkansas River	June 28, 1938	57,000,000
Brazos River	Sept. 3, 1954	20,000,000
Central and southern Florida	June 30, 1948	18,000,000
Columbia River	June 28, 1938	130,000,000
Mississippi River and tributaries	May 15, 1928	97,000,000
North Branch, Susquehanna River	July 3, 1958	17,000,000
Ohio River	June 22, 1936	62,000,000
Quachita River	May 17, 1950	1,000,000
San Joaquin River	Dec. 22, 1944	44,000,000
South Platte River	May 17, 1950	37,000,000
Upper Mississippi River	June 28, 1938	2,000,000
White River	June 28, 1938	4,000,000

(b) The total amount authorized to be appropriated by this section shall not exceed $527,000,000.

SEC. 2. In addition to previous authorizations, there is hereby authorized to be appropriated the sum of $101,000,000, for the prosecution of the comprehensive plan for the Missouri River Basin, approved in the Act of June 28, 1938, as amended and supplemented by subsequent Acts of Congress, and said plan is modified and expanded to include the following items of work, and the monetary authorization is increased accordingly:

(a) The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to perform such work as may be required, including the construction of dikes, to prevent shoaling near the pumping plant intake of the Frazer-Wolf Point irrigation unit on the Fort Peck Indian Reservation, located on the north bank of the Missouri River about thirty miles downstream from the Fort Peck Dam, at an estimated cost of $335,000 subject to the provision that the Bureau of Indian Affairs, Department of the Interior, obtain all necessary lands, easements, and rights-of-way, and maintain the project after completion;

(b)(1) That in connection with the improvements authorized by section 6 of the Act approved October 3, 1962 (76 Stat. 704, 706), to be undertaken on the Crow Creek Sioux Reservation in South Dakota, the Secretary of the Army is authorized and directed to provide the following under plans approved by the Crow Creek Sioux Tribal Council, at an estimated cost of $800,000:

(i) in connection with the community center building which serves as the Crow Creek Tribal Council offices: offices or conference rooms for visiting Bureau of Indian Affairs personnel, auditorium facilities, sufficient offices and conference rooms for tribal offices, and an adequately sized and equipped kitchen to serve community gatherings;

(ii) adequate water, sewer, and drainage facilities;

(iii) a street lighting system throughout the townsite;

(iv) widening of streets and provision of offstreet residential parking;

(v) sufficient parking near the community center for community gatherings;

(2) The Secretary of the Interior is hereby authorized and directed to reimburse the Crow Creek Sioux Tribe, from appropriations authorized by section 2(b)(1) of this Act, for all attorneys' fees and engineering fees, and expenses related thereto, as approved by the Secretary of the Interior, that the tribe has incurred or will incur in obtaining and implementing legislation to remedy difficulties arising from implementation of the Act of October 3, 1962 (76 Stat. 704), but such reimbursement shall not exceed a total of $22,500.

SEC. 3. Section 221 of the Flood Control Act of 1970 (84 Stat. 1824, 1831) is amended by striking the period at the end of subsection (f), substituting a comma therefor, and adding the following: "or to the assurances for future demands required by the Water Supply Act of 1958, as amended."

SEC. 4. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to cause a survey to be made for flood control and allied purposes, including channel and major drainage improvements, and floods aggravated by or due to wind or tidal effects on Chiltipin Creek at and in the vicinity of Sinton, Texas.

SEC. 5. The project for flood protection on Fourmile Run, city of Alexandria and Arlington County, Virginia, approved by resolutions of the Committee on Public Works of the United States Senate and House of Representatives, dated June 25, 1970, and July 14, 1970, respectively, in accordance with the provisions of section 201 of the Flood Control Act of 1965 (Public Law 89-298), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, shall replace the George Washington Memorial Parkway bridge over Fourmile Run, at Federal expense, substantially as recommended by the Chief of Engineers in his report dated March 2, 1970, published as House Document Numbered 91-358.

SEC. 6. The project for flood control and improvement of the lower Mississippi River, adopted by the Act of May 15, 1928 (45 Stat. 534), as amended and modified, is hereby further modified to provide that local cooperation to be hereafter furnished in connection with the Obion River Diversion aspect of the Tiptonville to Obion River, Tennessee project, authorized by the Act approved June 22, 1936 and amended by the Act approved July 24, 1946, shall consist of the requirement that local interests agree to maintain the completed works in accordance with the provisions of section 3 of the Act of May 15, 1928, and hold and save the United States free from damages due to the construction works.

SEC. 7. Nothing in any prior Act of Congress, committee report, or congressional document, shall be construed as requiring the State of West Virginia, in connection with the construction of the Stonewall Jackson Lake, West Fork River, West Virginia, and the Rowlesburg Lake project, Cheat River, West Virginia, to furnish assurances that it will hold and save the United States free from any claims for damages from storage of water.

SEC. 8. The Act entitled "An Act to provide for municipal use of storage water in Benbrook Dam, Texas" approved July 24, 1956 (70 Stat. 632) as amended by Public Law 91-282, is further amended by inserting immediately after the end of the Act the following:

"The Secretary of the Army is authorized to contract with the city of Arlington, Texas, for the use of water supply storage in the Benbrook Reservoir for municipal water supply for any storage not used by the city of Fort Worth or the Benbrook Water and Sewer Authority, for a period not to exceed four years or until such time as the water supply storage is needed for navigation purposes, whichever first occurs."

SEC. 9. (a) In order to protect the environment, promote safety, and provide access to the public use recreation area around Perry Reservoir, Kansas, the Secretary of the Army, acting through the Corps of Engineers, is authorized and directed, notwithstanding any other provision of law, to take such action as may be necessary to improve the following roads in the vicinity of the Perry Reservoir area, Kansas:

(1) The road leading north from United States Highway Numbered 24, at Perry, Kansas, to an intersection with a black top road east of the dam, consisting of approximately three miles;

(2) The road on the west side of Perry Reservoir beginning at the north end of Delaware State Park running north and west and intersecting State Highway K Numbered 92 approximately one and one half miles west of Ozawkie, Kansas, consisting of approximately six miles; and

(3) The road beginning on State Highway K Numbered 92, one mile east of Old Town Public Use Area, and running north approximately eight miles to intersect with State Highway K Numbered 4 and State Highway K Numbered 16 east of Valley Falls, consisting of approximately nine miles.

(b) In carrying out such improvements, the Secretary of the Army shall be authorized to realign and grade such roads, and to pave such roads with a plant-mix bituminous surface (including chemical stabilization), in accordance with secondary road standards of the State of Kansas.

SEC. 10. This Act may be cited as the "River Basin Monetary Authorization and Miscellaneous Civil Works Amendment Act of 1971".

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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

EXECUTIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar, under New Reports.

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

The PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with New Reports, will be stated.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE COAST GUARD

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard, which had been placed on the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc; and without objection, the President will be immediately notified of the confirmation of these nominations.

LEGISLATIVE SESSION

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

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

NOTICE OF VOTES ON THREE TREATIES ON MONDAY, NOVEMBER 29, 1971

Mr. MANSFIELD. Mr. President, after discussing the matter with the distinguished minority leader and the appropriate members of the Committee on Foreign Relations, I ask unanimous consent that following the vote on Executive B, 92d Congress, first session, the Treaty To Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary Between the United States of America and the United Mexican States, signed at Mexico City on November 23, 1970, the Senate proceed to consider Executive E, 92d Congress, first session, the Convention between the United States of America and Japan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Tokyo on March 8, 1971, and the Senate will then proceed to the consideration of Executive O, 91st Congress, second session, the protocol, signed at Washington on October 12, 1970, to the convention between the United States of America and the French Republic with respect to taxes on income and property of July 28, 1967. Mr. President, all these measures were reported unanimously

from the Committee on Foreign Relations. It is anticipated that before we adjourn for Thanksgiving, these matters will be discussed in detail and final reading will be had. On that basis, if the Senate agrees, there will be three separate rollcall votes on these three treaties on Monday next, November 29, 1971, after our return.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. SCOTT. Mr. President, I ask unanimous consent that my staff assistants Hannah McCornack and Ken Davis be granted the privilege of the floor for the remainder of this week.

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

THE SENATE'S GOOD HUMOR

Mr. SCOTT. Mr. President, this morning, the Chaplain referred to the importance of proceeding in good humor. I, too, should like to comment on that because I think the closing of our session last night reflects one of the important characteristics of the Senate.

We fought hard for our different points of view. We struck hard blows on both sides of the aisle without at any time striking foul ones. We contended vigorously for our various points of view. We made a record. We made some issues. But at the end of the debate, as always, some people prevail and some people do not prevail; but we closed our session in excellent humor and with mutual respect, each of us for all of the others.

If the Senate is to continue as the greatest deliberative body in the world, it is essential that we at all times recognize the leavening effect of humor and good will and the importance of remembering that we exist only through mutual comity, cooperation, and the tolerance of consent.

I am very glad, having traveled through the valleys and up the hills, that we finally reached the top of the mountain and enjoyed the sharing of refulgent light for our common benefit.

Mr. MANSFIELD. Mr. President, may I join the distinguished minority leader in his remarks. I wish I had said it previous to the vote: that regardless of the outcome of the tax measure, it would be accepted in good faith on this side as it was accepted in good faith on the other side.

It is true that the debate was spirited at times. There are always two sides to every question, of course. Only time will tell who was right. But it was worthwhile because it did help to clear the air. It did bring a very important issue before the Senate for its consideration. I am grateful to the entire Senate, most especially to the Republican side of the aisle, because had they desired to do so, they could have kept us in session on this one issue ad infinitum, because I know they had amendments by the score to keep us running back and forth for many days, if not for weeks, to come.

I am very glad that the issue has been decided. This is the way democracy works in an institution such as the Senate. We sometimes win and sometimes lose. If we win, we take it, hopefully, with grace. If we lose, there will always come another time. But what is important, as the distinguished Senator from Pennsylvania has said, is the comity and understanding on both sides which make this body function.

Mr. SCOTT. I thank the majority leader. It is fortunate, perhaps, that the cognomen of the Secretary of Agriculture designate furnished for us a moment of jocularity.

Mr. MANSFIELD. Mr. President, from now on I intend to watch my language.

ORDER OF BUSINESS

The PRESIDING pro tempore. Under the previous order, the Senator from Connecticut (Mr. WEICKER) is recognized for not to exceed 15 minutes.

ATTENDANCE RECORD OF THE PRESIDENTIAL HOPEFULS

Mr. WEICKER. Mr. President, I rise this "morning after" to note the historical significance of what occurred on this floor yesterday. Compared to the incredible event I am about to relate the "revolutionary campaign funding bill," as writers have termed it, pales into insignificance. The Revenue Act of 1971 all but disappears from view. George Meany's crashing rudeness becomes but a minor slight. Vietnam and phase II lose the center stage.

Specifically I refer to the 100-percent attendance by all the Senate Democratic presidential hopefuls on the campaign funding bill.

This fact only becomes significant when you compare the 100-percent batting average on this overwhelming crucial issue with the batting average on other matters of some concern to the American people.

For instance a random sampling shows—

Vote No. 13. The Appalachia Regional Development Act of 1971 which was geared to providing funds for the needy, rather than politicians. Three of eight absent—63 percent present.

Vote No. 18. A bill to provide a 10-percent increase in social security payments, providing money for the elderly, not politicians. Five of eight were absent—38 percent present.

Vote No. 22. To prohibit sonic booms over the United States, thus protecting the health of people rather than the financial health of politicians. Five of eight absent—38 percent present.

Vote No. 23. SST funding, one of the eight managed to miss this one, among the most controversial measures before the Senate in years—88 percent present.

Vote No. 29. Public service employment, three of eight absent—63 percent present. This one would have provided Federal help for the unemployed, rather than tax support for unemployed politicians.

Vote No. 34. The Ribicoff amendment to the Equal Education Opportunities for Children Act, to provide State planning funds, six of eight were absent—25 percent present.

Vote No. 38. Stennis amendment to Equal Education Opportunities for Children Act, applying criteria on desegregation equally across the country. Three of eight missing—63 percent present.

Vote No. 46. Applying ceilings on wage-price control authority to interest rates. Five of eight absent—38 percent present.

Vote No. 61. Amendment to bar draftees from combat. Four of eight absent—50 percent present.

Vote No. 93. An amendment to increase combat pay. Four of eight absent—50 percent present.

Vote No. 114. Space shuttle. Three of eight absent—63 percent present.

Vote No. 126. The school lunch program, to provide food for needy youngsters rather than for needy politicians. Four of eight absent—50 percent present.

Vote No. 127. A bill designed to help insure jobs for men working for firms faced with bankruptcy, the so-called Lockheed bill, the amendment to bar Lockheed from congressional review. Four of eight absent—50 percent present.

Vote No. 182. The Federal Elections Campaign Act, which perhaps would have made the present Pastore amendment unnecessary, even on this. One of eight was absent—88 percent present.

Vote No. 199. Passage of the Economic Opportunities Act amendments, to provide assistance to the poor, rather than to poor politicians. Four of eight absent—50 percent present.

Vote No. 201. The motion to table the conference report on Draft Act extension. Five of eight absent—38 percent present.

Vote No. 207. The vote to permit imports of chromium ore from Rhodesia, highly controversial. Two of eight absent—75 present.

Vote No. 209. Motion to place MIRV funds in escrow. Seven of the eight absent—13 percent present.

Vote No. 213. Amendment to end the F-14 program. Three of eight missing—63 percent present.

Vote No. 214. The amendment to end ABM contracts. Three of eight absent—63 percent present.

Vote No. 217. Vote on importing Rhodesian chrome ore. Two of eight absent—75 percent present.

Vote No. 223. A move to restore Federal pay raises, meaning money to Federal employees rather than political aspirants. One managed to miss that vote—88 percent present.

Vote No. 228. Move to bar foreign aid funds to Vietnam until it was determined election was fair. Four of eight absent—50 percent present.

Vote No. 243. Repeal of the Formosa resolution. Four of eight absent—50 percent present.

Vote No. 244. Move to strike Cooper-Church from foreign aid bill. Three of eight absent—63 percent present.

Vote No. 247. Ceiling on funds for Cambodia. Four of eight absent—50 percent present.

Vote No. 248. Dealing with U.S. contributions to U.N. voluntary agencies. Four of eight absent—50 percent present.

Vote No. 250. Foreign aid funds to Greece. Six of eight absent—25 percent present.

Vote No. 251. Ceiling of $150 million for Cambodia. Five of eight absent—38 percent present.

Vote 252. To increase Cambodia expenditures ceiling by $91 million. Five of eight absent—38 percent present.

Vote 253. Cut authorizations for development loan fund by $165 million. Five of eight absent—38 percent present.

Vote 254. Amendment to cut U.N. funds. Four of eight absent—50 percent present.

Vote No. 255. To cut military grant authorizations by $113 million. Four of eight absent—50 percent present.

Vote No. 256. Foreign Assistance Act of 1971, final passage, five of eight absent—38 percent present.

Votes No. 384 and 385. Pastore amendment to provide millions in tax dollars to finance political campaigns—none of eight absent—100 percent present.

Mr. President, such a record clearly deserves congratulations for having broken all known records of self-service.

Even though the moon had fallen to science up until yesterday's Democratic spectacular, it was a term used to connote the monetary unattainable for politicians.

Gentlemen, think Mars.

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

Mr. WEICKER. I yield.

Mr. SCOTT. I think that an even more amazing side effect of this particular guerrilla raid on the depository of our funds was not the presence of all of the presidential aspirants here, but their significant absence from the high temple of holiness to which they all make some abject obeisance—namely, the convention of the AFL–CIO in Miami.

Their sanctimonious excuse is that they had to be here to vote. However, if anyone would look at a plane schedule, it would be quite obvious that they could have been present at an early breakfast and still have arrived here without missing one or two of the preliminary votes. Yet, somehow, with a unanimity to which they also conform in their presence, there was a unanimity in their absence from this convention. This is the first time in my recollection that anything like this has happened.

The distinguished Senator from Connecticut has made an important point regarding their attendance in the Senate. But I do hope, for the sake of Presidential fairness, that they will be able later to hitch their central wagon to the star by which they are guided and will perhaps have an opportunity to yield to the temptation of one of the declared presidential aspirants who sent word that he was for anything they wanted.

That does not mean a public-be-damned attitude. It means he is for any wage increase no matter how sky high. He is not for maintaining the limitations of the Pay Board or Price Commission, but the Pay Board particularly. This kind of impossibility might be reflected if the other candidates had the opportunity to make in person their ceremonial bows to the lords of labor. As one who has had the endorsement of many unions over the years—dozens of them—they know I am not going to bend a knee to them; I am going to be perfectly independent of them. I think a man who wants to be President of the United States should hold that view.

Maybe I ought to be a candidate for President of the United States, although I am not a candidate now and never have been. But because I have no fear of the consequences of making a statement of this kind, it is more acceptable than bowing to any special interest groups.

I wish that this similar absence of fear would reflect itself more often when dealing with pressure groups, whether it be a chamber of commerce, labor union, veterans' organization, or any other group. Therefore, I shall watch the future sessions of this great body of organized labor, which does meet to protect the sacred rights of collective bargaining and other important rights which have been hard fought for and hard won. But I hope that hereafter our presidential candidates will be able to trek around and make their pilgrimages to the temples where they worship without being put to the inconvenience of rushing back to the Chamber to vote themselves more money.

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

Mr. WEICKER. I yield.

Mr. COOK. Mr. President, I might say to the Senator from Connecticut and the Senator from Pennsylvania that one thing that bothered me more than anything else about it was the fact that we were debating a future change in the political system that has tremendous ramifications, some of which none of us can even foresee. If, in fact, the measure is not received by the American people then, obviously, it will not be in existence and we will go back to the present system.

But I must say that not only were those Senators here yesterday, but they did not miss one vote on one amendment on this matter from the time it was brought up. Yet except for what I think was a fine contribution to the debate by the Senator from Massachusetts in the early stages last week, not a single Senator who is in contention for the nomination of the Democratic Party entered into this debate from time to time during its course. This very important issue is before the American people, and not one word from those Senators is in the RECORD. The RECORD contains words by one contender in the prior to the final vote, after the Pastore amendment had been disposed of and after other amendments had been disposed of.

But the point I really would like to make is that it seems rather strange to me that on an issue that is so important not only to the actions of Congress itself, but in its ramifications on the Presidency, at no time did any of these distinguished Members of this body see fit to enter into this debate. They came when the bell rang, they left after the bell rang five times, and they returned when the bell rang again. This is rather a sad commentary on what could have been historically important as a debate. There could have been interjected into the debate the feelings of those who may well succeed to the high office of President, but their words are absent. They saw fit not to enter into debate.

Mr. WEICKER. Mr. President, will the Senator yield on that point?

Mr. COOK. I yield.

Mr. WEICKER. If you are going to the cookie jar, you do not turn on all the lights and ring the dinner bell.

Mr. COOK. One remark made last night on one of the news programs was that the distinguished Senator from Minnesota said,

> Now the President will not have to worry about whom to invite to dinner because he will not have a long list of people to whom he is obligated.

If all the primaries go off on schedule, and all the money is spent this year, as it was in 1968—it cost over $25 million to get through those primaries—and there will probably be more, there will be a long, long list of people he could invite to the White House to whom he might feel obligated as a result of going through the primaries.

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

Mr. WEICKER. I yield.

Mr. SCOTT. Perhaps the presidential aspirants were stricken by the mute nature of the monetary aid that was piling up before their very eyes, and there was no need to talk because their actions speak so loud we could not have heard them anyway.

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

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes.

ATTENDANCE OF DEMOCRATIC SENATORS TODAY

Mr. MANSFIELD. Mr. President, I was privileged to listen to the speeches just made about attendance records—very much interested—and I am happy to report to my Republican colleagues that the attendance of Democrats in the Senate today to consider a very important bill, the Defense appropriation bill, is 100 percent.

Mr. SCOTT. I do confess my unmitigated delight upon receipt of these latest dispatches.

Perhaps I might repeat my inquiry of the distinguished majority leader as the clock tolls on toward 5 o'clock, 6 o'clock, and 7 o'clock this evening. Then we will discover the degree of interest of presidential candidates vis-a-vis the vote on one of the most important bills of the year, the appropriation for the Department of Defense, and we will see if they give up their engagements in the public interest or not. Perhaps my speech may help the distinguished majority leader in keeping his erring flock at home.

Mr. MANSFIELD. May I say that national security always comes first.

Mr. SCOTT. Exactly, sir.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON STATUS OF RESEARCH FACILITIES FUNDS

A letter from the Director of Science and Education, Department of Agriculture, transmitting, pursuant to law, a report on status of research facilities funds, as of June 30, 1971 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT ON THE FEASIBILITY OF FEDERAL ASSISTANCE FOR URBAN MASS TRANSPORTATION OPERATING COSTS

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on the "Feasibility of Federal Assistance for Urban Mass Transportation Operating Costs", dated November, 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT ON REVIEW OF U.S. PROGRAMS IN AFGHANISTAN

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report on review of U.S. programs in Afghanistan (with an accompanying report); to the Committee on Government Operations.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. BIBLE, from the Committee on Interior and Insular Affairs:

Vincent E. McKelvey, of Maryland, to be Director of the Geological Survey.

By Mr. AIKEN, from the Committee on Agriculture and Forestry:

Earl Lauer Butz, of Indiana, to be Secretary of Agriculture (Executive Rept. No. 92–13), together with individual views.

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

Alfred T. Goodwin, of Oregon, to be a U.S. circuit judge for the ninth circuit;

James S. Holden, of Vermont, to be a U.S. district judge for the district of Vermont;

Levin H. Campbell, of Massachusetts, to be a U.S. district judge for the district of Massachusetts;

Ralph F. Scalera, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania;

Charles M. Allen, of Kentucky, to be a U.S. district judge for the western district of Kentucky;

Clarence C. Newcomer, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania;

William H. Rehnquist, or Arizona, to be an Associate Justice of the Supreme Court of the United States; and

Lewis F. Powell, Jr., of Virginia, to be an Associate Justice of the Supreme Court of the United States.

EXTENSION OF TIME FOR THE FILING OF COMMITTEE REPORTS

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that the Committee on the Judiciary have until midnight on Tuesday next to file its report and minority views regarding the nominations to the Supreme Court of Mr. Powell and Mr. Rehnquist.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PERCY (for himself and Mr. FULBRIGHT):

S. 2900. A bill to amend the John F. Kennedy Center Act to authorize funds for operation and maintenance of the nonperforming arts function of that Center. Referred to the Committee on Public Works.

By Mr. MOSS:

S. 2901. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Colorado River in the State of Utah as a component of the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOSS:

S. 2901. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Colorado River in the State of Utah as a component of the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

AMENDMENT TO WILD RIVERS ACT

Mr. MOSS. Mr. President, I am today introducing a bill to amend the National Wild and Scenic Rivers Act to designate 13½ miles of the Colorado River in Grand County, Utah, as a component of the national wild rivers system. The stretch of the river to be so classified runs from the lower end of the Westwater ranch to the upper end of the Rose ranch. It begins about 6 miles west of the Colorado-Utah State line, and flows west and south in the State of Utah.

The wild rivers designation, as this body well knows, is applied to certain selected rivers of the Nation which have remarkable scenic, recreational, geologic, or other values which should be preserved by keeping the river in its free-flowing condition, and its shore environment in its natural state, so that generations to come may enjoy them unimpaired by man-made incursions.

The stretch of the Colorado River in Utah to which this legislation applies qualifies superbly as a wild river. The river enters into Granite Canyon below Westwater ranch and within a few miles is constricted into narrow gorge of hard black granite rock topped by Navajo sandstone which shades from reds into oranges and yellow. The sheer walls of the gorge rise some 1,000 to 1,200 feet above the river's floor. There are 12 rapids within a 4-mile section of the river, where the water is very rough. The white water coursing swiftly through the gorge is both picturesque and awe inspiring.

Some 200 people ran the rapids in this gorge this past year. The trip is made in small rubber rafts, under the guidance of an experienced riverman. I have run these rapids with Mr. Dee Holladay, of Salt Lake City, and I assure you it is an exhilarating experience. The area is primitive and remote, and completely unspoiled.

The bill I am introducing provides that not only the river and its bed shall be protected and maintained in their natural state, but that about 2 miles on each side of the shore shall be protected also to maintain the complete wilderness character of the area.

The Secretary of the Interior is authorized under the bill to exercise whatever protective measures are necessary to retain this stretch of the river and its environs in their present natural state.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2097

At the request of Mr. PERCY, the Senator from New Jersey (Mr. WILLIAMS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Rhode Island (Mr. PELL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. NELSON), the Senator from Minnesota (Mr. MONDALE), the Senator from Missouri (Mr. EAGLETON), the Senator from California (Mr. CRANSTON), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. STEVENSON), the Senator from Colorado (Mr. DOMINICK), the Senator from Ohio (Mr. TAFT), the Senator from Vermont (Mr. STAFFORD), the Senator from New Hampshire (Mr. COTTON), the Senator from Delaware (Mr. ROTH), the Senator from Delaware (Mr. BOGGS), the Senator from California (Mr. TUNNEY), the Senator from New York (Mr. BUCKLEY), the Senator from Iowa (Mr. MILLER), the Senator from Colorado (Mr. ALLOTT), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of S. 2097, a bill to establish a Special Action Office for Drug Abuse Prevention to concentrate the resources of the Nation in a crusade against drug abuse.

S. 2465

At the request of Mr. CHILES, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 2465, a bill to establish the Everglades-Big Cypress National Recreation Area in the State of Florida.

S. 2748

At the request of Mr. BOGGS, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 2748, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide benefits to survivors of police officers, prison guards, and firemen killed in the line of duty.

S. 2825

At the request of Mr. PEARSON, the Senator from New Jersey (Mr. CASE), the Senator from Kentucky (Mr. COOPER), the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Utah (Mr. MOSS), and the Senator from Connecticut (Mr. RIBICOFF) were added as

cosponsors of S. 2825, a bill establishing a Government-administered life insurance policy to all Vietnam-era veterans.

SENATE JOINT RESOLUTION 164

At the request of Mr. GRIFFIN, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of Senate Joint Resolution 164, a joint resolution proposing an amendment to the Constitution of the United States relating to the assignment and transportation of pupils to public schools.

SENATE JOINT RESOLUTION 169

At the request of Mr. HOLLINGS, the Senator from Georgia (Mr. GAMBRELL), the Senator from Maryland (Mr. MATHIAS), the Senator from Alabama (Mr. ALLEN), the Senator from Kentucky (Mr. COOPER) were added as cosponsors of Senate Joint Resolution 169, a joint resolution to pay tribute to law-enforcement officers of this country on Law Day, May 1, 1972.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 202

At the request of Mr. MATHIAS, the Senator from New York (Mr. JAVITS), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Alabama (Mr. SPARKMAN), and the Senator from ALASKA (Mr. STEVENS) were added as cosponsors of Senate Resolution 202, relating to troop reductions in Europe.

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 51

Mr. TOWER. Mr. President, I am pleased to join in sponsoring Senate Concurrent Resolution 51 offered by the distinguished Senator from New York (Mr. BUCKLEY) and the distinguished Senator from Tennessee (Mr. BROCK). The concurrent resolution expresses "the sense of Congress that the President, acting through the United Nations, should present to the United Nations General Assembly in fitting manner the issue of the right to emigrate from and also return to one's country."

The fundamental right of emigration is specifically written into the United Nations' Universal Declaration of Human Rights. However, Communist nations which are member states of the General Assembly have consistently ignored the Universal Declaration of Human Rights by refusing to allow citizens the right to emigrate to the land of their choice.

If the United Nations has a proper role to play in the affairs of the nations of the world, I believe this is a proper subject for the U.N. to consider. The plight of Soviet Jews is perhaps the best example of the totalitarian system perpetrated by the Communist world. Living under a system of constant terror including all forms of political, social, and religious persecution, many Soviet Jews have been denied the right to leave the Soviet Union and emigrate hoping to find a more peaceful life elsewhere. Members of other groups have also sought the right to emigrate from within the Communist world and have been denied the right to do so. The wall separating East and West Berlin continues to symbolize the Communists' total disregard for the universal right of social mobility declared to be the policy of the international community.

Mr. President, I understand that this concurrent resolution has been the subject of hearings in the House of Representatives and that it has gained the support of both the Department of State and the U.S. Ambassador to the United Nations, the Honorable George Bush. The Senate should, therefore, act swiftly on this matter and present to the world community our united stand against Communist brutality in denying fundamental human rights to all the peoples of the world regardless of race, color, or creed.

NOTICE OF HEARING ON NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, December 1, 1971, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Leroy J. Contie, Jr., of Ohio, to be U.S. district judge, northern district of Ohio, vice James C. Connell, retired.

Thomas A. Flannery, of Maryland, to be U.S. district judge for the District of Columbia, vice Leonard P. Walsh, retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

NOTICE OF HEARING ON A NOMINATION

Mr. MCCLELLAN. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, December 1, 1971, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination:

Donald W. Banner, of Illinois, to be Commissioner of Patents, vice William E. Schuyler, Jr., resigned.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Michigan (Mr. HART), the Senator from North Dakota (Mr. BURDICK), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Hawaii (Mr. FONG), and myself, as chairman.

NOTICE OF HEARINGS BEFORE PUBLIC HEALTH, EDUCATION, WELFARE, AND SAFETY SUBCOMMITTEE OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. TUNNEY. Mr. President, in addition to previously announced bills that will be considered in hearings tomorrow, November 24, 1971, by the Subcommittee on Public Health, Education, Welfare, and Safety of the Committee on the District of Columbia, we will also receive testimony on S. 2899, the District of Columbia Medical Facilities Construction Act of 1972.

The hearings will be held on Wednesday, November 24, 1971, at 10 a.m. in room 6226, New Senate Office Building. Persons interested in testifying on this bill should contact Mr. Gene E. Godley, General Counsel, in room 6222, New Senate Office Building.

ADDITIONAL STATEMENTS

NATIONAL BIBLE WEEK

Mr. TOWER. Mr. President, a recent news item from Kenya reported the theft of a case from a house during the night—a case which the thieves later abandoned when they found it contained 160 copies of the Bible. It had been sent to a post office worker from the United States for free distribution in public places. The headline accompanying the article read: "The Word Wasn't What They Wanted."

Something like that might be said of the modern world insofar as it turned away from God: the Word is not what we want. The annual observance of National Bible Week serves to recall us as a people to the moral and spiritual foundations of our society as those foundations are revealed in the Word of God which is the Bible. That Word is truly one of judgment—judgment tempered by mercy, to be sure, but there is always a sense in which it is unwelcome. Some prefer not to hear and to heed the clear call of repentance and conversion of life which runs like a golden thread through the pages of the Old and New Testaments:

Jerusalem, Jerusalem, return unto the Lord thy God.

In these troubled and difficult days for America it often seems that we might well echo that headline: "The Word Wasn't What They Wanted." And yet, apart from the teaching enshrined in the Bible, we will find neither security nor peace.

The Bible is, as it were, a kind of basic training in life. For Christians the Bible is the greatest book in the world, and for this reason: In the Bible, as in no other book, God speaks to man, makes Himself known, does something to us and for us, and tells us how we are expected to live. We share the Old Testament with two of the other great religions of the world, Judaism and Islam. The New Testament is distinctively Christian, and in its pages the pattern of a perfect life, lived in utter obedience and service, is set forth. For Christians the crowning fulfillment of Scripture is the Word made flesh, the spirit, the mind, and the character of Jesus Christ.

National Bible Week is a call to each of us, individually and in families, as well as in our churches and synagogues, to turn to the Word of God and, above all, to hearken. For many the Bible is little more than a heavy bookend, a dust gatherer more often praised than read.

And yet its message is of such power that it is able to transform the lives of men and nations. Far from being a dead book, the Bible continues to inspire new and contemporary translations suited to the needs of fresh generations of readers throughout the world.

The Bible has always been associated with man's struggle for freedom, dignity, and justice. The historian, J. R. Green, cited the impact of the great King James translation, the familiar authorized version, upon the minds and hearts of those Englishmen who fought valiantly in the 17th century to preserve and extend the blessings of liberty. Their faith is a part of our American heritage. In the words of Sir Walter Scott:

Within that awful volume lies
The mystery of mysteries!
Happiest they of human race,
To whom God has granted grace
To read, to fear, to hope, to pray.
To lift the latch, and force the way.

Modern scholarship has immensely enlarged our knowledge and understanding of the historical background in which the Bible came into being. The result has been a new ecumenical spirit among divided Christian communities, centering in the recovery of the Word as the foundation of Christian life and thought.

Whatever the future may hold, we may be certain that the Bible will maintain its special place, enduring vitality, and perennial relevance. The American poet John Greenleaf Whittier has spoken for every age in these lines:

We search the world for truth; we cull
The good, the pure, the beautiful,
From all old flower-fields of the soul;
And, weary seekers of the best,
We come back laden from our quest,
To find that all the sages said
Is in the Book our Mothers read.

MICHIGAN STATE UNIVERSITY EXPERTS CRITICIZE BLS REORGANIZATION

Mr. PROXMIRE. Mr. President, in line with the continuing concern about the reorganization at the Bureau of Labor Statistics, Department of Labor, I ask unanimous consent that a letter to the Joint Economic Committee on this matter, signed by 11 members of the Economics Department of Michigan State University, be printed at this point in the RECORD.

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

JOINT ECONOMIC COMMITTEE.
November 17, 1971.

To the Joint Economic Committee of Congress:

We the undersigned faculty members of Michigan State University are concerned over the reorganization of the Bureau of Labor Statistics as announced in the Department's press release of September 29, 1971. It appears that two professional economists, Mr. Harold Goldstein and Mr. Peter Henle, have for political reasons been demoted or displaced from duties they had been carrying out satisfactorily.

Although new appointments may be based on professional competence, as the release states, the fact that career civil service appointees can lose their posts in this way is bound to put pressure on every government statistician to avoid the presentation of unpleasant facts that might incur the displeasure of their political superiors.

The release also states that the Bureau's statistical procedures and standards will not be affected. We take this reassurance at face value, but the release says nothing about analysis and explanation of the data, and interpretations made to the press and the public by those who have a special bias may be misleading. We therefore feel that official releases accompanying the data should be prepared only by responsible technical experts.

We believe that summary reorganizations and other actions of this kind tend to undermine the integrity of federal statistics. Trust and confidence in data that are essential for analysis of the nation's position have been built up over several decades but could be dissipated in short order.

We therefore urge an investigation of the needs some assurance of fair play from sources outside the administrative channels themselves.

changes already made and any others that are contemplated. The American public

John P. Henderson, Economics; Walter Adams, Economics; Lawrence Officer, Economics; Subbiah Kannafan, Economics; Byron W. Brown, Economics; Maurice Weinrobe, Economics; Mitchell Stengel, Economics; C. Patric Larrowe, Economics; Harry G. Brannard, Economics; Harold Reinholds, Economics; Milton C. Taylor, Economics.

Mr. PROXMIRE. Mr. President, I invite special attention to the second paragraph, referring to the displacement or demotion of two fine economists:

Although new appointments may be based on professional competence, as the release states, the fact that career civil service appointees can lose their posts in this way is bound to put pressure on every government statistician to avoid the presentation of unpleasant facts that might incur the displeasure of their political superiors.

This fact is frequently overlooked by those attempting to justify the actions.

HONOR TO J. EDGAR HOOVER AND THE FBI

Mr. EASTLAND. Mr. President, the 25th annual meeting of the Southern Regional Conference of Attorneys General met recently in my State. In session at Biloxi, Miss., this distinguished group of legal leaders adopted a series of resolutions expressing their viewpoint on a variety of subjects.

Among these resolutions was one expressing the appreciation of the Southern Regional Conference of Attorneys General to the Federal Bureau of Investigation and its Director, the Honorable J. Edgar Hoover.

Mr. President, I agree—as do many Americans—with the letter and the spirit of this resolution, honoring a great American and the outstanding organization which he heads. The resolution is as follows:

Whereas, the Federal Bureau of Investigation has earned, through years of dedicated service, high esteem as one of the most reputable and competent law enforcement agencies in the world; and

Whereas, the Director of the FBI, J. Edgar Hoover, in a lifetime of service to our country, deserves a place of honor as one of America's outstanding patriots and leaders; and

Whereas, each of our states has benefited from FBI expertise, not only in carrying out its investigative responsibilities but also in its police training programs, laboratory and fingerprint work and through other services the FBI offers to state and local prosecutors and local law enforcement agencies:

Now, therefore, be it resolved, that the Southern Regional Conference of Attorneys General expresses its appreciation to J. Edgar Hoover and the FBI.

DISCOURTESY TO PRESIDENT NIXON

Mr. GOLDWATER. Mr. President, when AFL–CIO president, George Meany, adopted his rude and hostile attitude toward the President of the United States, he chose to do it in comfortable surroundings of his own making. In other words, while he was mouthing disrespectful wisecracks and making sure that the Chief Executive was not accorded the courtesy due the highest office in the land, he was surrounded by his longtime buddies and henchmen in the labor movement. What he seems to have forgotten was that the entire Nation looks on when a President performs, regardless of attempts to freeze out important parts of the communications media.

I suspect that Mr. Meany is now beginning to understand this condition. From all over the Nation critical editorial comment is rolling in, and it has had the effect of making President Nixon a hero. Typical of the editorial comments was that published in the Nashville, Tenn., Banner of November 20. It is entitled "The Right Speech at the Right Place at the Right Time." Because it is a particularly incisive and accurate appraisal of Mr. Nixon's address to the AFL–CIO convention, I ask unanimous consent that it be printed in the RECORD.

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

THE RIGHT SPEECH AT THE RIGHT PLACE AND TIME

In the address delivered yesterday before the AFL–CIO convention—a revision of his prepared text—President Nixon made the right speech, at the right place and at the right time. With no intention of offending his audience, but with the candor a mutual understanding demands, he told that Miami Beach assembly that he was going to make his economic program work, with or without organized labor's support.

It was not a prejudicial utterance, notwithstanding the fact that AFL–CIO President George Meany has adopted a hostile position to much of the freeze policy as it applies to wages, in Phase II. Mr. Nixon assuredly does not want to alienate any element in the nation's economy; he is bent, rather, on orienting all these components in the mutual interest of all, for economic recovery, stability, and prosperity.

At the same time, he recognizes that the urgency of success in that objective necessitates action for its accomplishment, regardless of any segment that either refuses to lend support or attempts to block it. In still other words, the President is not playing a partisan game; but, in the responsibility that is his, is seeking to mobilize the maximum of economic strength for the job that is to be done.

He could have reminded his audience that some of the very ones opposing his program, including some in positions of labor leadership, are those who most strenuously advocated wage and price controls before they were clamped on.

In acknowledging areas of disagreement on details, the President paid a warranted trib-

ute to the judgment and national devotion of organized labor's rank-and-file.

"What there can be no disagreement on," he said, "is the need to provide more jobs for more Americans; the need to provide a dollar that doesn't decrease in value every time you get a pay raise; the need to increase production; the need to increase trade with other nations and stop subsidizing foreign industry with American jobs, and the need generally to establish a sound and stable economic base which will give us prosperity in time of peace."

The President obviously does not confuse the attitude of Meany & Co. with that of the total constituency. For he knows that, contrary to the stance of those labor leaders who preceded him on that rostrum to berate the administration and impugn its motives and objectives, a substantial segment of organized labor has supported his economic program. For example, the Gallup Poll disclosed on Aug. 28 that the Nixon program was supported by 65 per cent of labor union families interviewed, indicating a wide divergence between the view of union leadership and that of rank-and-file members.

It logically is assumed that President Meany is aware of that, also, and it is a factor in his decision to continue as a member of the Pay Board, notwithstanding his stated disagreement.

President Nixon launched his program in the national interest, and obviously intends for it to succeed. He frankly declared that he knew that when the chips were down, and the objectives of such vital consequence nationally, he could count on labor's support for his policies.

Stating it as frankly as he did, and with it serving notice, it was the proper message indeed, on the proper occasion. More than those at Miami Beach were listening.

THE SITUATION IN PAKISTAN

Mr. PERCY. Mr. President, the tragedy of the South Asian situation deepens, and with the passing weeks we continue to learn of the brutality, homelessness, and starvation suffered by the East Bengalis.

Mrs. Mildred Robbins visited East and West Pakistan from September 30 to October 11 of this year as an observer for the International Peace Academy. In this capacity she visited Karachi, Lahore, and Islamabad in West Pakistan and Dacca and Chittagong in East Pakistan, meeting with Pakistani Government officials, civil servants, private individuals, Pakistani and foreign voluntary nongovernmental agencies, foreign government representatives, U.S. personnel and members of the national and international press. She notes that, even though the number of refugees pouring into India continues to grow, the problem is not lack of relief supplies but inadequate distribution, poor organization, and a breakdown of the transportation system. She also acknowledges that the relief problem cannot really be solved until the political problem is resolved.

Mrs. Robbins' report is the most recent firsthand report of which I am aware. While I do not necessarily agree with all of her conclusions, I believe the report is essential reading for those of us who are deeply interested in the Pakistani situation.

I ask unanimous consent that the text of her report be printed in the RECORD.

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

REPORT ON PAKISTAN—SEPTEMBER 30 TO OCTOBER 11, 1971

(By Mrs. Mildred Robbins)

I was in Pakistan—East and West—for twelve days as an observer for the International Peace Academy. I was to report on the current conditions in Pakistan, offer its good offices as a third party and assess the need for and response to the development of training programmes in the fields of disaster relief and rehabilitation.

To try to meet these requirements, I went to Karachi, Lahore, Islamabad in West Pakistan and to Dacca and Chittagong in East Pakistan. I met and spoke with about seventy people. They represented Pakistani government officials, civil servants, private individuals, Pakistani and foreign voluntary nongovernmental agencies, foreign government representatives, U.N. personnel and members of national and international press.

A perspective on Pakistan's history makes the complexity of problems more comprehensible in the light of the current civil war in East Pakistan and the mass exodus of East Pakistanis into India.

Faced with two rival movements, both responding to deep feelings in the sub-continent, the British agreed in 1947 to division, based on Muslim pressures for the creation of two nations. Pakistan was to consist of the Muslim majority areas—much of Bengal and much of the Punjab, together with Sind and the N.W.F.P. To understand the feelings of today one must recall that the Bengalis and the Punjabis never got along well together. Their common religion was their one link—they differ in language and temperament, in skills and development. The Punjabis are thought of as more pragmatic, more government, military and business-oriented, while the Bengalis tend to enjoy politics and literature. The West Pakistanis today consider the East Bengalis as simple people whom they are trying to elevate from their state of under-development, and the Bengalis regard the Punjabis as a rather rough and militaristic people.

The partition in 1947 was accompanied by communal rioting with the loss of tens of thousands of lives. Some six million Muslims fled to Pakistan and a similar number of Hindus and Sikhs fled to India. Despite this vast exchange, Hindus remained in the Bengali wing of Pakistan and Muslims remained in India. In fact, India today, after Indonesia and Pakistan, ranks third in numbers of Muslims. Relations between India and Pakistan reflect a centuries old Hindu-Muslim rivalry and a mutual distrust.

Today, the divisive issues of Kashmir, a Barrage on the Ganges and a few small enclaves are used by Pakistan as examples of India's lack of good faith, its continuing aggression against Pakistan, and its determination not to accept the partition. This bitterness has escalated with the civil strife in East Pakistan and the flight of millions of East Pakistanis, principally Hindu, into India. Pakistan feels that the whole disturbance was caused by and is being exacerbated by India. They are quick to point out India's role in providing sanctuary for the rebels and the arming and training of the forces for Bangla Desh. Pakistan, in further defence against accusations of continuing massacre, point to the fact that they have permitted the U.N. to handle the relief efforts and have agreed to the posting of U.N. observers on their borders whereas India has refused to permit observers. A point here—the Pakistan Southern border near Calcutta is far more difficult to patrol because of its geography than is that of India's border. On the other hand, it is reported that not only has India not permitted U.N. observers, but also has not permitted foreign correspondents, relief agencies, et al, near the borders or the relief camps. Neither countries' hands are completely clean.

There are major troop movements on the borders and the tension is heightening. In West Pakistan signs abound, "Crush India" and civilian evacuees are starting to come in from the borders. This was reported particularly around Lahore, which is considered a border town. To many West Pakistanis who view the civil strife with dis-belief and indignation, the "blame India" movement is another example of not admitting a reality. When questioned about the validity of East Pakistan's grievances, they recount all that has been done for East Pakistan but that reform takes time and resources. They bristle at allegations of their discrimination.

The sad part is that the central government is holding back on initiating reforms, which could serve as a sign of good intent.

With rising civil strife the most prominent activity of the government is the imposition of martial law. True, they have offered general amnesty, they have installed a civilian governor, and they have opened twenty-three reception centres for the safe return of refugees along the borders. They say they will appoint more East Pakistani administrators. However, the credibility of these efforts must be questioned. True amnesty does not exist—in fact, there is a continuing effort to root out individuals—in government and in civilian life—who appear to be opposed to the central government. As for the civil governor—an East Pakistani—he may be trying but he does not have the power. The power in East Pakistan remains with the Army. A General questioned almost flippantly what peace was and felt that Western ideologies had no place in Pakistan and should not be foisted upon them. As another military officer explained to me, the simple people of East Pakistan just were not ready for democracy. They saw democracy as an opportunity to hold meetings and to speak freely.

In justification, the central government is trying to preserve the unity of their nation. Many of them recall all too vividly the horrors associated with the partition and the many sacrifices they were called upon to make to create a new nation, hopefully free of religious prejudice. They feel it imperative to save the nation of Pakistan; that it would be as if one limb were torn from a body. To quote the widow of a former leader, "Pakistan belongs to each one of us as a sacred trust, and we are not going to betray that through our own selfishness, greed, laziness or fear". She said, "The threat of an imminent war, under which we find ourselves today, along with that of destruction, death and disaster, was engineered by those who never in their hearts accepted our sovereign independence; by those who maliciously tried to subvert and mislead some of our own people seeking power for themselves".

Alas, the people of West Pakistan are separated not only by a lack of sympathy and miles, but also by a lack of sympathy and understanding of the problems and realities of the East Pakistani. Government officials, cloistered in the newly-constructed capital of Islamabad, are isolated from the true situation. They make declarations and issue edicts that somehow do not seem to have relevance to the demands of the day.

There is a civil war being waged in Pakistan. Comparisons have been made with the civil war in the United States where one of its most distinguished Presidents waged war for four years but not only to preserve the union, but also to ensure the equal rights of all. The U.S. has learned to live together as a nation. Whether this is possible in Pakistan is doubtful. However, when seeking resolution to conflict one should not admit the inability for reconciliation and should never cease to explore all possibilities for such resolution.

POLITICAL FACTORS

The death of the Pakistani leader Jinnah in 1948 and the assassination of his political successor Prime Minister Liaquat Ali Khan deprived Pakistan of its two most able leaders too early in its life. Political instability followed until a military take-over by General Ayub Khan occurred in 1958. However, he was forced, under the pressures of students and workers, to relinquish his post in March of 1969. General Yahya Khan took over as Martial Law Administrator with his promise of a civilian government to be initiated soon after. He permitted political parties and political activities to be resumed.

On December 7, 1970, Yahya set about "to restore democratic institutions" by holding national elections. It was a free and peaceful election. Eleven different political parties and fifteen independents emerged with seats in the National Constituent Assembly. One party, however, emerged with a majority of votes—one-hundred-and-sixty-seven of the three-hundred-and-thirteen total. The pakistani Awami League, headed by Sheikh Mujibur Rahman, received ninety-eight per cent of the votes of the East Pakistani electorate. He had promised greater autonomy for East Pakistan and had embodied this in six points. East Pakistan has always maintined that it has been under-represented in the central government and denied its proper share of central government resources. Their unity in voting was particularly spurred by the slow response of the central government to their cyclone crisis in November.

The Pakistan's Peoples Party, with the next strongest majority of eighty-one seats, was led by Zulfikar Ali Bhutto. Thus Mujib and Bhutto met with Yahya in the succeeding days after the election to arrive at some understanding before the Assembly convened on March 3. The talks ended in a deadlock and the Assembly meeting was postponed.

This postponement was viewed by the Awami Party as further evidence of discrimination. A non-violent, non-participation movement was started which subsequently led to violence, to provocations against the Army and government, to prisoners being released, to killings, to the hoisting of the Bangla Desh flag. The army moved in to restore law and order and maintain the unity of the country. A whole new series of atrocities were committed, a reign of terror was started and no-one felt safe. Bengali was pitted against Bengali and the Hindus didn't stand a chance. The Bengali members of the Pakistan armed forces refused to fire on other East Bengalis and fled across the borders to India. Those Awami League members who were able to escape were joined by masses of Hindus. Mujib was arrested the first night of the crackdown. Eighty-eight out of the one-hundred-and-sixty-seven elected Awami Leaguers have since been granted amnesty. The government has called for by-elections to fill the empty spots in East Pakistan. Curiously, the Dacca seat won by Mujib and that of his Constitutional expert, Kamal Hosain, are not listed as up for re-election. The ban on political activities, imposed on March 26, was lifted on October 10. Many political parties are now campaigning in East Pakistan all vying for the vacant seats.

Despite the claims of freedom to Campaign, at a press conference called by a retired Air Marshall, he described the fact that there was a black-out of news about him in the papers. "How," he asked, "can you run for an office if the people don't know you are running?" "And how can you equate loyalty to one's country with loyalty to one's government?" He asked, "Why go through the formality of an election, aiming for the creation of democratic institutions if all candidates are not initially permitted to speak out?" Because of this frustration, he withdrew from the running for office. A few days earlier he had made the suggestion that no elections be held and that the Assembly be convened as elected. This suggestion was immediately negated.

If the elections are held in December and January as planned, the results will not reflect the people's first choice—the Awami League—since the Party is banned. Will the elections take place? Will the Mukti Bahini discourage the people from voting? Will the Army force the vote? Will the people cast blank ballots? How many of the Awami accredited electorate remain in East Pakistan? Questions such as these cast credibility upon the elections' results.

REFUGEES

The numbers of refugees now in India, and the numbers still growing, boggle one's mind. According to Pakistan they number two million two hundred, and according to India they number over nine million. Perhaps the truth lies somewhere in between. It is an horrendous human problem which seems to defy solution. India, herself suffering in those regions with the problems of want and starvation, is faced with the enormous problem of the care and feeding. Forty-eight nations have responded to the need with contributions in money and supplies channeled through the U.N. High Commissioner for Refugees as well as by direct national contributions to India. Private relief agencies are also giving assistance, although the Indian government has asked them to absent themselves from the refugee camps, claiming there are enough qualified Indians to handle the problem. A volunteer corps has been developed within the camps made up of qualified personnel who, as doctors, social workers and teachers, are helping to alleviate the conditions of their fellow Pakistani. A long term solution to the problem must be sought but the immediate problem of keeping millions of people alive must be met.

What is the future of the refugees? Will they return? Are there adequate provisions for their safety? Will they be welcomed? Will the displaced person have his house and land returned to him? Who will displace the individual residing there now? There are twenty-three reception centres for the displaced persons set up all along the borders of Pakistan. According to official Pakistani figures on October 11, there were 179,111 returnees of whom 48,119 were processed through the centres; of these 13,000 were non-Muslims. Each centre is set up to handle 500–1,000, but at the moment there is no over-crowding problem because of the small number of returnees.

Reasons given to me for the returnees slipping over the borders and not going through the centres included the possibility that they may be prevented normal return by the Indians; the concentration of the Indian and Pakistani armies on the borders; and the apprehension of reprisals at the centres.

FOOD SITUATION

From all indications, there are adequate food supplies for the next four months and there is a good rice crop soon to be harvested. The difficulty is getting it to the people. There is practically nothing moving. Supplies must be moved out of the port and dispersed into the countryside. Two major factors working against this are the government and transportation.

There seems to be ineffective central authority at the ports. The ships remain loaded in the harbours; rice, a year-and-a-half old lies rotting in the warehouses; dried milk spills out of torn bags; cement bags harden; supplies are stacked in haphazard fashion and cut down on the warehouse capacity; supplies ordered as a result of the November cyclone such as rape seed and roofing still lie about; where there was once many thousands of skilled workers (in unloading and stacking) there are now about five hundred; boats run aground because of over-loading. Further discouraging facts emerge such as the bombing of the laden ships in port, the blow-ups of power lines, of railroads and traffic on the roads, with the intimidation of boatmen and drivers. A real effort has been made to secure an agreement with the Mukti Bahini to permit the supplies to be delivered to the people in U.N. marked cars and boats with assurance that the Army will not be associated with the shipments. The central government has agreed to this. However, constant delays occur with the officialdom and bureaucracy, with harassments such as the requirement of ship captains to sign waivers that guards are not necessary to ensure the safety of their crews, and continuing change of government personnel.

Therefore, contingency plans, though being drawn up for relief, rehabilitation and reconstruction, are still thwarted by the problems of transportation and government. Trucks are being delivered—one hundred white cars with the U.N. symbol have already arrived, with the likelihood of eleven hundred more to arrive. Minibulkers, tugs, ferries and country boats are being secured. But unless the food can be loaded with a minimum of steps into these various means of transportation and dispersed into the fifty-nine sub-divisions of the country, there will be large pockets of hunger in this country of seventy million people and an ever-increasing stock-pile of supplies at the ports.

All these efforts are being co-ordinated by the newly created United Nations East Pakistan Relief Organisation (UNEPRO), which is seeking to bring together the efforts of agencies such as UNICEF, CAO, WHO, World Food Programme, the U.N. High Commissioner for Refugees together with the bilateral efforts of many governments and non-governmental agencies. Pakistan has agreed to this U.N. presence. If UNEPRO is able to feed and care for the people, it will serve as a valuable precedent for other international disaster areas.

There is material law imposed on the citizenry of East Pakistan. There is fear and hunger; no security or safety. There are growing numbers of disturbances by the Mukti Bahini. Bridges are blown, the trains no longer run, ships have been sunk and firing goes on in the countryside and in the cities each night. Repressive acts by the Army occur daily, continuing against suspect East Pakistanis. Democracy is a long way off.

There are rumours—and few substantiated facts—and even these become distorted in the retelling.

The tragedy is that everyone seems to be locked into their situations and positions. Certainly no leader, Yahya included, wants to go down in history as the man who brought about the disruption and dissolution of his country—or the man who perpetrated genocide. He is looking for a way out. But even if he finds it, does he have the power to follow through? How much power does the Army exercise?

West Pakistan feels assured that things are much better in East Pakistan, while the actual situation in East Pakistan worsens daily and the fear and apprehension grow. The Army, securing the unity of the nation, has the whole populace cowering and so does the Razakhar and the Peace Committees. From across the border the Mukti Bahini come each night also sowing fear and destruction. The mass of people don't know which way to turn. But they know they want, at least, autonomy, but if this is not possible they will opt for outright secession. Their leader Mujib is imprisoned and people wonder, if he is now released, what influence he will have.

West Pakistan government officials say they do not condone the excesses that have occurred; they do not exclude any possibility for settlement; they state the U.N. is in complete charge of relief operations; they say that

they do not hate India but do insist on her respect.

The government is using nineteenth century colonial action of force to impose its will. The strain on the economic life—as exports decrease and the military budget increases—is being felt, as is the psychological impact on the people. It is a time of human tragedy and political upheaval.

To sum up, current conditions in Pakistan reflect the results of a series of events that started with the November cyclone—slow Pakistan reaction for emergency help—dramatic electoral victory for the Awami League in December—postponement of the Assembly—Awami League's reaction of initial nonviolence and then violence—Army's crushing imposition of martial law—massive stream of refugees into India—continuing civil strife.

Pivotal factors working against reconciliation and the resolution of the refugee problem include:

Growth of terrorism on both part of Army and Mukti Bahini.

Breakdown of the transportation system that inhibits distribution of relief supplies.

Further possible political chaos ensuing as a result of the by-elections.

Growth of tension between India and Pakistan with the concomitant possibility of an outbreak of war.

No apparent solution to the growing number of refugees in India.

The civil war is a national problem. All nations should disengage themselves. The U.N.'s role and impact still remains a question of feasibility and possibility. Though I.P.A. offered its good offices in mediation, it remains to be seen if this offer will be taken up. There was much interest in I.P.A.'s suggestion re: development of training programmes for disaster relief and rehabilitation.

The refugees now in India have produced an international problem.

The whole situation is compounded by interests of the big powers—Russia, U.S.A. and China—in the subcontinent.

Though the peaceful resolution of conflict seems remote, the moral suasion of the international community, both public and private, must persevere. The alternative is further destruction of peoples' lives and homes and nations.

Finally, one must clearly see that it is basically a political problem that must be resolved before the relief problem can be resolved.

RECOMMENDATIONS RE: GOVERNMENTS

1. Assume as neutral a position as possible and disengage from any political involvement. It is not anyone's business but that of Pakistan's. There is a civil war and all foreign interests should remove themselves.

2. The problem of the refugees in India has become an international problem. Massive aid should be directed here.

3. All economic aid to Pakistan should be channeled through the Consortium of thirteen nations joined in Aid to Pakistan, working through the International Bank for Reconstruction and Develoment.

4. All military shipments, including parts, should cease.

5. Quiet diplomacy must continue, both by governments and the U.N.

RECOMMENDATIONS RE: U.N.

Against the background of the two primary difficulties of transportation and government:

1. Urgent need for the effective coordination of all U.N. specialised agencies.

2. The chain of command of the U.N. operations should be clearly defined and the leadership identified.

3. The need for at least one hundred field service personnel to be stationed *permanently* in depots throughout the countryside. This would expedite the delivery and receipt of supplies, ensure, to some extent, that the supplies reach the needy, and serve as a security bulwark for the local population. Permanent assignment would permit the familiarisation with the countryside, the needs and the people. At the moment, the U.N. seems to be trusted by the three factions—the Army, the Mukti Bahini and the people. These nonmilitary outposts should be established rather rapidly as it would further assure the Mukti Bahini that the efforts were geared to the people and they might permit the boats to move again.

4. There is a need for an accurate inventory of the stocks—type, date of delivery, condition—as well as a good housecleaning. Not clear whether this is in purview of the U.N., but certainly should try to exercise influence as to the method of stacking of materials, their site assignment, etc.

5. Discourage, if possible, anymore food supplies for the next four months. There seems to be no imminent danger of famine—the inadequacy lies in the inability to transport the food to the people. As an example, UNICEF is getting the dried milk to the Chittagong area, but can make no deliveries in the Dacca area.

6. UNEPRO should be seen as a pilot project for further U.N. disaster relief operations and for the establishment of such a permanent body within the U.N. At the outset, it seems to be one step ahead of the Biafra Relief operation. Certainly, useful operational guide-lines can be developed from the experience—frustrating though it may be.

7. Will the scope of the U.N. encompass rehabilitation as well as relief under UNEPRO? This would seem to make sense in disaster areas, as the emergency operation must move almost immediately into the other area of rehabilitation.

8. Will the U.N. be effective in East Pakistan? At the moment I am rather pessimistic. It is dependent on how far and how fast the government is prepared to co-operate (despite protestations). The world community has heard that Pakistan has welcomed U.N. to take over the relief operations in East Pakistan. In effect, it has transferred its responsibilities. Therefore, if it is not successful, that responsibility lies with the U.N.

RECOMMENDATIONS RE: IPA

1. Continue to explore possibility of third-party role to seek alternative solutions to end the conflict with "dignity and respect". Many West Pakistanis expressed the hope for "peace and tranquility."

2. Pursue the possibility of working with the new U.N. disaster relief agency, proposed by U Thant, in the development of training programmes.

3. Develop training programmes for disaster-prone areas. The Pakistan government officials were very interested in seeing programmes developed for:—

(i) Administrators (to include an over-all plan) and

(ii) Secondary personnel who could then pass on the training to the local levels.

4. Explore the possibility (remote) of improving co-operative relations between volunteer agencies and between specialised agencies.

5. Develop plan for utilisation of armed forces for humanitarian purposes—e.g. relief. First step would have to be to change the people's image of the armed forces.

POST MORTEM ON FOREIGN AID

Mr. CHURCH. Mr. President, Dr. Nasrollah S. Fatemi, director of the Graduate Institute of International Studies at Fairleigh Dickinson University at Teaneck, N.J., recently wrote two articles in support of the view that the American foreign-aid program is generating more problems than it is solving. Dr. Fatemi supports the action of the Senate in defeating the omnibus foreign-assistance legislation last October 29.

Dr. Fatemi, formerly Ambassador from Iran to the United Nations, quite correctly points out that the foreign aid program, as it now operates—

Has brought us nothing but worries and world problems, should be stopped and be replaced by a multilateral program to which all the rich nations should contribute.

At another point in the articles, published in the Record, of Hackensack, N.J., on November 4, he suggests that the defeat of the foreign aid bill last October:

Will compel both the Administration and the Congress to study the whole subject anew, and this is a compulsion to be welcomed.

Mr. President, I ask unanimous consent that these two thoughtful articles be printed in the RECORD.

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

AID: WHAT IT COULD BE AND WHY

The United States foreign aid program, as of now killed in its familiar form by the Senate, was based on principles that no longer apply, and it was not working as the country had hoped. It took an extraordinary combination of liberals and conservatives to defeat it, and motivations for voting it down were in striking contrast to one another, but it may well have been the best result possible.

The theory of the aid program when it was devised after World War II was sound enough. There was an actual Russian military threat in Europe, and the nations of Europe were in desperate need of funds for recovery from the war. That was the time when the cold war was at its height, and American thinking became stylized in the mold of the cold war. The aid program which worked among the industrial nations of Europe and the political theory that held the Soviet Union at bay through President Truman's administration were applied as if they were revealed truth for the world as a whole.

The involvement in Vietnam is only the most spectacular of the results. The aid program was applied to help undeveloped nations achieve industry and affluence, and they are further behind the developed nations than they were at the start. The hope from the beginning was that United States foreign aid would advance the cause of freedom. It hasn't done so. The program's title implies that it is non-military, but more than half the $3.3 billion in the bill the Senate killed last week was for military purposes in a world that no longer can afford war. During the debate just before the final vote Sen. Church of Idaho said:

"Even with enormous power and the best of intentions, there are some things we cannot do, things which are beyond our moral and intellectual resources. If we learn nothing else from the experience of the Sixties, it will profit us immeasurably to have learned that being richer and stronger than everybody else has not made us wiser. When it comes to wisdom, we are part of the pack; just knowing that will be wisdom enough."

The foreign aid program was designed when the world had two superpowers and they were in conflict. Emerging today are five superpowers, the United States and the Soviet Union and beyond them united Europe, mainland China, and Japan.

The defeat of the foreign aid program in its familiar form should be seen not as a disaster but as an opportunity. Can its vast bureaucracy be dismantled? Can the Third World actually be helped? What more can be done by multinational agencies collaborating

in small projects and so learning to work together in large ones?

The defeat will compel both the administration and the Congress to study the whole subject anew, and this is a compulsion to be welcomed.

FOREIGN AID DIED LONG SINCE AS FAR AS ITS PURPOSES GO

(By Nasrollah S. Fatemi)

The Senate should be applauded for putting an end to a foreign aid program which is ineffective and wasteful and is heping only a few corrupt and authoritarian kings and politicians from Madrid to Malaya, from Taiwan to Teheran. This should have happened 10 years ago to save the United States close to $60 billion in foreign aid and a war in Vietnam which has cost us 55,000 lives and more than $180 billion.

On June 5, 1963, in testimony before the House Committee on Foreign Affairs, I stated:

"The idea of foreign aid is great, and history can show few other examples as generous and as magnanimous. But too many assistance programs and concept under the Foreign Assistance Act have been unrealistic, inefficient, too expensive, and, in some countries, corruption-ridden."

I suggest that the present program, which has brought us nothing but worries and world problems, should be stopped and be replaced by a multilateral program to which all the rich nations should contribute.

If our purpose was to stop and contain Communism, it is unfortunate that since 1946 the population of the Communist world has quintupled. After 20 years of our opposition to Communist China, by an overwhelming vote of 76 to 35, the membership of the United Nations voted to admit the government of the People's Republic of China. Despite the spending of billions of dollars we were not able to get even Iceland, Belgium, Iran, Israel, Ethiopia, Turkey, Laos, Pakistan, Portugal, Morocco, Greece, Thailand, and Spain to vote against the Albanian resolution.

THE PROGRAM HAS BEEN GENEROUS

If our purpose was to help the people of the world fight against poverty, misery, and ignorance, it has failed dismally. A report by the General Accounting Office implies that foreign aid spending has been a kind of diplomatic pork barrel. In most countries receiving our foreign aid the rich are getting richer and the poor are getting poorer. The gap between the poor and the rich nations of the world is much wider today than it was in 1947.

The administration tells us that our balance of payments problem has been caused by foreign speculators, and that military expenditures and foreign aid should not be blamed for it; but figures published by the United States Department of Commerce show that our military expenditures, foreign aid, and grants in 1970 produced a $7.5-billion deficit in our balance of payments. For the current year we are faced with the largest deficit balance in the history of the United States—$10 billion.

In a conference of the rich nations in Paris on Oct. 22, the administration failed to get the support of other nations to tie in a part of the foreign aid to purchases in the United States.

This country accounts for about 45 per cent of the total aid, investments, and loans from the wealthy countries and for 80 per cent of the grants and free assistance. The Soviet Union, West Germany, Japan, France, and the other nations, give very little free aid and grants. Their assistance is mostly investment or interest bearing loans. Every rich nation except the United States ties its loans and investments to credit and the purchase of its goods and commodities.

If our objective was to strengthen democratic regimes vis-a-vis Communist dictatorship, our balance sheet shows many liabilities in Latin America, Spain, Portugal, Greece, the Middle East, Africa, and Southeast Asia. Most of our military and foreign aid has been used by kings, politicians, and generals to wipe out democratic ideas and institutions, to dissolve parliaments, and to crush the opposition. The death of the parliamentary system in Cambodia is the latest in a series of long and unhappy events since 1952.

We have given more than $3 billion to Iran, a country whose capital of four million people is without a sewer system, whose illiteracy rate is over 80 per cent, and whose autocratic Shah spent $100 million to entertain international loafers and freeloaders.

We all owe a vote of thanks to the Senate because:

1. During the last seven years our foreign aid has had no plan, purpose, or leadership. It has been bureaucratic, mismanaged, and corrupt. One third of the total economic and military appropriations is used for salaries, stipends, and other expenses of more than 100,000 civilian and military advisers and staff. There has never been a frank and objective evaluation of its achievements.

IT DIDN'T HELP OUR POLICY

The administration spokesmen claim that our foreign policy will suffer without foreign aid. If this is true and foreign aid has been so essential to our peaceful foreign policy then would somebody explain to the taxpayers what happened in Lebanon, the Soviet penetration of the Middle East and North Africa, the Greek and Turkish conflict, the Indian and Pakistani clashes, the Dominican adventure, and the 10 year war of Indochina?

Why did we have to spend another $200 billion on war and keep a million American troops outside the United States? Why is it possible for other powers to conduct foreign relations without paying protection money to international blackmailers?

2. Our foreign aid since 1954 has had no connection with the original ideas of the Marshall Plan and Point Four. It has been a vehicle to preserve the status quo and military dictatorships. Instead of tailoring it to the needs of the masses in every country, instead of trying to liberate millions of exploited peasants and workers throughout the world, instead of using it to support reform-minded and progressive leaders who fight for justice and democratic institutions, we have allowed it to be used by princes and politicians and generals to erode the very principles of justice and freedom.

3. The present foreign aid is both useless and counterproductive because it is tied to our military adventures: 80 per cent of soft development loans in 1970 was spent in nine countries; 90 per cent of the supporting assistance was granted to three countries, and only 15 countries were the beneficiaries of 87 per cent of the total aid programs.

4. During the last decade, thanks to the bureaucrats in Washington, the war in Indochina, and our many giveaway programs, the richest and the best economic system in the world has been pushed to the brink of bankruptcy.

Our friends and foes know that it is no longer possible for the United States to bear the burden of defense of Europe and to give away billions of dollars for military expenditures and foreign aid.

According to a congressional survey, foreign aid backlog funds appropriated but not spent so far exceed $5 billion; therefore, the Senate vote neither hampers nor hurts the present programs for the next two years.

This will give Congress two years to evaluate past programs and to come out with a new plan which would effectively respond to the objectives and needs of the 1970s. Neither our present foreign aid nor our economic situation meets the changes which both the President and the Senate have been talking about.

The present Humpty Dumpty cannot be resurrected.

PRESIDENT NIXON AND THE AMERICAN INDIAN

Mr. BELLMON. Mr. President, of all the problems that faced President Nixon when he took office in January 1969, none was more perplexing or frustrating than the plight of the American Indians.

Victims of centuries of oppression, substantial numbers of the Nation's 800,000 Indians continued to live in abject poverty—poorly housed, poorly educated, unable to get jobs or to provide for adequate health care and other necessities for themselves and their families.

Despite expenditures of large amounts of Federal funds, the bottom-of-the-barrel position of the "First American" offered tragic evidence that all the efforts of the Federal Government had added up to a dismal failure.

The Nixon administration has not ignored this difficult problem, but instead has recognized the need for new attitudes and effective action programs. Within the relatively short time these new approaches have been applied, already an impressive record has begun to be written.

As a Senator from the State having the largest Indian population—97,731, according to the 1970 census—I am proud to be a part of this effort. Among the legislative proposals which have been developed to help the Indian achieve a better place in our society is a bill which I am sponsoring to establish within the Department of the Interior the position of Assistant Secretary for Indian Affairs. It is my feeling, and the feeling of the Nixon administration, that the growing Indian population of this country deserves to be represented within the Department by its own Assistant Secretary. Under the present administrative framework, the Bureau of Indian Affairs is under the Assistant Secretary for Land Management. This is one of the most dehumanizing conditions that has been allowed to be perpetuated.

The Senate has passed this bill and sent it to the House, where I hope it will receive favorable action, because it is long past time for the Federal Government to start treating American Indians like people and not like property.

The progress being made by the Nixon administration to find solutions to the problems of Indians has been documented in a report prepared by the research division of the Republican National Committee. This is a report which should be of interest to all Members of Congress, regardless of whether they represent sizable Indian populations.

Mr. President, I ask unanimous consent that the report be printed in the RECORD.

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

RESEARCH REPORT: AMERICAN INDIANS

It is time for the United States government to focus its full attention on the plight of the American Indians—those first Americans which President Nixon has described as "the most deprived and isolated group in

our nation." They have needlessly suffered centuries of injustice. Today, their problems are many and severe. President Nixon said:

"The American Indians have been oppressed and brutalized, deprived of their ancestral lands and denied the opportunity to control their own destiny."

President Nixon has addressed himself to this crucial need. The Nixon approach is two-fold: re-defining the government's attitudes towards American Indians, and translating these new attitudes into *action* designed to solve the problems of Indians.

NIXON ATTITUDES

Under the direction of President Nixon, America has progressed from the question of whether the federal government has a responsibility to Indians to the question of how that responsibility can best be fulfilled. The President has attempted to dramatically break with past approaches to Indian problems. In his Message to Congress on American Indians (July 8, 1970) he suggested "a new and coherent strategy." The essence of this strategy is simple: *that Indians should manage their own affairs.* President Nixon described his goal: "to create the conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions." President Nixon believes that such an approach is the only pragmatic solution to Indian problems. The President observed: "programs which are managed and operated by Indians are likely to be more effective in meeting Indian needs."

An important feature of President Nixon's approach to Indian problems is his unqualified rejection of the *termination* policy—that is, the notion that federal responsibility for Indian reservations can be eventually phased out as those reservations become self-sufficient. The President clearly stated: "This policy of forced termination is wrong." He believes that to terminate the federal government's relationship with American Indians would represent intolerable neglect. The government cannot afford to "terminate" the citizenship rights of *any* segment of American society. Thus, the President has requested that Congress repeal and repudiate the termination policy which was expressed in past legislation.

President Nixon firmly believes that this new attitude will lead to better living conditions for American Indians. But attitude alone is not enough; it must be translated into action. As an elder at the Tesque Pueblo in New Mexico remarked to government officials: "I have seen the thunder and lightning many times before, but I have never seen the rain."

President Nixon is determined to bring the "rain".

NIXON ACTION

Appropriations

The high priority of Indian affairs in the Nixon administration is best reflected by the level of funding given to Indian programs. For instance, the fiscal 1972 budget of the Bureau of Indian Affairs is *$408.3 million*, an increase of *$52.5 million* over the current fiscal year's funding. The 1971 budget request of the Office of Economic Opportunity increased *18%* over 1969. And last year, OEO funds for Indian economic development *doubled* and alcoholism and recovery programs funding *tripled*. Altogether, funding for Indian programs run by the federal government increased from slightly more than *$613 million* in fiscal 1970 to *$716 million* in fiscal 1971. An estimated *$825 million* will be appropriated in fiscal 1972.

Urban Indians

The Nixon Administration has recognized the need to aid Indians living in urban centers. It is estimated that almost as many Indians live in cities as on reservations. Three-fourths of these Indians live in poverty. Since the Bureau of Indian Affairs does not have jurisdiction over non-reservation Indians, efforts must be directed through other channels. As a start, OEO and the Department of Health, Education and Welfare will create seven urban Indian centers in major cities to serve as links between existing government service programs and urban Indians.

Indian lands

The Nixon Administration has made a genuine start towards restoring to Indians some of their rightful lands. For example: the Taos Pueblo Indians used lands at and near Blue Lake in New Mexico for religious and tribal purposes as early as the fourteenth century. In 1906, however, the U.S. Government appropriated these lands from the Indians "without compensation". President Nixon—recognizing this injustice—endorsed legislation which would restore *48,000 acres* of sacred lands to the Taos Pueblo people. That legislation was enacted in December, 1970. Another example: President Nixon asked Congress to approve a settlement of Alaska land claims giving Indians, Eskimos, and Aleuts *$1 billion* over a period of three years and title to *40 million acres* of land.

Health

Health conditions of American Indians have reached tragic proportions:

The average life expectancy for an American Indian is approximately seven years less than for other Americans.

Infant mortality is nearly *50%* higher for Indians and Alaska natives than for the general population.

Indians contract tuberculosis at a rate *eight times* that of the general population.

The suicide rate of Indians is *twice* that of the national average.

"This Administration," President Nixon declared, "is determined that the health of the first Americans will be improved." Six major health areas have been selected for immediate attention: middle ear disease, mental health, alcohol control, maternal and child health, development of community health projects, and manpower development. The President requested $163,692,000 for the Health Services and Mental Health Administration for Indian programs—an increase of $19,003,000 over the 1971 appropriation.

Economic conditions

Indians are the economically poorest segment of American society. Indian households are large, averaging five persons per family (as compared to 3⅓ for the nation). Indian unemployment is ten times the national average, and 80% of the Indians on reservations have incomes below the poverty line.

In an attempt to ease the financial strain of the Indian community, the Nixon Administration has taken steps designed to stimulate Indian business. The Indian Business Development Fund was provided to allocate money grants to serve as cash equity for Indians unable to qualify for small business loans from public or private sources. To date, 241 new Indian-owned small businesses have been granted funds to start their operations and an additional 143 have received funding for expansion purposes. The IBDF has generated a total of $16.4 million in capital for Indian business. These new and expanded Indian businesses will create an estimated 2,800 jobs with an annual payroll of approximately $11.7 million.

The President also proposed the "Indian Financing Act of 1970" which would: (A) Increase the funds of the Revolving Loan Fund (which loans money for Indian economic development projects) from approximately $25 million to $75 million; and (B) Provide loan guarantees, loan insurance, and interest subsidies. Indian unemployment will, hopefully, also be reduced through implementation of the BIA fiscal 1972 budget. The budget provides $14.9 million for the direct employment of over 4,000 Indians. In the first nine months of fiscal 1971, nineteen new commercial and industrial enterprises (started up with BIA assistance) accounted for more than 500 new jobs in Indian areas. Also, Tribal Work Experience Programs have increased. By April, 1971, such programs were in operation on twenty-four Indian reservations and were responsible for the employment of 3,185 workers (with 12,947 persons in their families).

These various programs and initiatives have had dramatic results in selected areas. For example, economic development programs have served to lower the unemployment rate at the Gila River Reservation in Arizona from *56%* to *18%*. Moreover, the median family income was increased by *150%* and the welfare rate was reduced by *50%*.

Education

Indians are severely under-educated. In fact, their educational level is only ¾ that of other Americans. Indians drop out of schools at a rate twice that of the national average. The average educational level for all Indians presently under Federal supervision is less than nine school years.

The Nixon Administration is committed to improving this intolerable situation. Hopefully, the new government policy of self-determination will make such improvement possible. The President observed: "at least part of the problem stems from the fact that the Federal government is trying to do for Indians what many Indians could do better for themselves." Also, the OEO strongly endorsed a report on Indian education which concluded that making an American Indian a "white man" should *not* be the goal of Indian education. In April, 1971, the Commissioner of OEO formed an Indian Education Task Force for the purpose of determining where additional money is needed and how existing money can be best applied. The OEO spent a total of *$60–65 million* on educational activities that directly or indirectly affected Indians in fiscal 1970.

President Nixon has announced an increase in scholarships for Indian college students of *$848,000* (increasing the number of assisted students from 6,100 to 8,400). In addition, the President requested that Congress amend the Johnson-O'Malley Act (which provides for Federal funds to schools with a certain percentage of Indian children) so as to authorize the Secretary of the Interior to channel funds directly to Indian tribes and communities. The Johnson-O'Malley program has been funded at a level of *$20 million* in the current fiscal year.

Funding for education-related programs of the Bureau of Indian Affairs increased *$19.7 million* in fiscal 1972 (from *$144.1 million* to *$163.8 million*).

Self-determination

Prior to President Nixon's Message to Congress on Indian problems—and the subsequent new policy which emerged—Indians were not in control of their own affairs.

At the Bureau of Indian Affairs, 80% of all the positions from grade GS 7 and above were held by non-Indians. Only 2.4% of HEW's Indian health programs were actually run by Indians. And of the Department of Interior's programs directly serving Indians, only a mere 1.5% were under Indian control. Such facts reflect not only an unjust situation but an unlawful one. For an "Indian preference" law has been in existence since 1934.

The Nixon Administration has acted to give American Indians the control which they lawfully deserve. BIA Commissioner Louis R. Bruce (a Mohawk-Sioux) has prepared a new directive which will apply "Indian preference" standards to the agency's hiring and promotions systems. To date, fifteen out of a possible twenty top BIA executive positions have been filled with Indians. The total number of Indians currently in BIA area director positions has risen to six out of a possible eleven (as compared to the one out of eleven previously). In addition, all 200 BIA schools have Indian advisory school boards

or education committees. These facts represent substantial evidence that the BIA is truly moving towards active reform.

The President's theme of self-determination has been applied to other areas of Indian life. American Indians, in short, have begun to control their own destiny. Consider these examples:

Indian tribes actively participated in the development of the initial Fiscal 1973 Planning, Programming and Budgeting data.

Several new inter-tribal and national organizations were created in the last year—among them the National Chairman's Association, the North American Indian Women's Association, and the United Tribes of Western Oklahoma and Kansas.

Indian communities run more than sixty community action agencies presently located on Federal reservations. In fact, the OEO spent approximately $57 million in Fiscal 1971 through Indian-controlled grantees.

The BIA's Environmental Awareness Program (which was begun in February) involves thousands of Indian students in 219 Bureau boarding schools.

Conclusion

President Nixon has acted to improve the lives of "the nation's most neglected minority." He has reformed the federal government's attitude towards the American Indian—giving them, for the first time in centuries, ultimate control of their own affairs. He has also attempted to supply government help where it is needed.

American Indians are the physically poorest segment of our society. However, they are undoubtedly one of the richest American groups culturally. At a time in our history when most Americans are frustrated with problems of mass technology, the American Indian's sense of purpose has remained essentially intact. As we become increasingly aware that our natural resources are critically endangered, we remember that American Indians have practiced respect for the environment since their beginnings. As President Nixon observed: "We must begin to act on the basis of what the Indians themselves have long been telling us."

In conclusion, President Nixon has made a genuine effort to help solve the physical problems of Indians. It is his hope that, in return, Indians will help to solve the cultural problems of America. President Nixon believes that "the first Americans"—who have already enormously contributed to their country—may very well show the way to an even greater America.

U.S. LEADERSHIP AGAINST THE CRIME OF GENOCIDE

Mr. PROXMIRE. Mr. President, President Harry Truman, in his letter to the Foreign Relations Committee on the subject of the Genocide Convention, said:

> By the leading part the United States has taken in the United Nations in producing an effective international legal instrument outlawing the world-shocking crime of genocide, we have established before the world our firm and clear policy toward that crime. By giving its advice and consent to my ratification of this convention, which I urge, the Senate of the United States will demonstrate that the United States is prepared to to take effective action on its part to contribute to the establishment of principles of law and justice.

The United States was a leader in the writing of the Genocide Convention. It was largely through the efforts of our Government that this treaty was written and submitted to the nations of the world for ratification. But now we have lost our leadership in this area. For 22 years this treaty has been before the Senate awaiting ratification. During that time 75 nations of the world have ratified it. But the United States, the Nation that is so responsible for the existence of this treaty, has not ratified it. Our failure to act embarrasses us before the other nations and weakens our moral leadership.

Now the Senate has an opportunity to act. On May 4 of this year the Foreign Relations Committee reported the treaty, and it is now on the Executive Calendar of the Senate. We have only to consider it and agree to it to once again assume the position of leadership that we once held in this area. The time to act has come.

Mr. President, the Senate should ratify the Genocide Convention without delay.

INDIVIDUAL TAXPAYER DESERVES SAME TREATMENT AS CORPORATIONS

Mr. BENTSEN. Mr. President, the Revenue Act has been passed by the Senate, and it now goes to conference. Because of the numerous amendments which were offered, and the lateness of the hour, some amendments were not brought to the floor. One of them is an amendment which I considered offering to provide tax carryback treatment for individuals equal to the provisions available to corporations. I recognize, however, that this is a complex amendment that should be studied and, if needed, revised by the Finance Committee. Because other tax bills will be coming to the Senate from the House, the committee will have ample opportunity to consider this carryback amendment in connection with its consideration of one of those bills.

Present tax law permits any taxpayer, corporate or individual, a carryback of net operating losses, excess foreign tax credits, and a variety of other items. The pending tax bill, in revitalizing the investment credit, also provides a carryback benefit for individual as well as corporate taxpayers. With respect to net capital losses, however, the Internal Revenue Code authorizes a 3-year carryback benefit for corporations, but does not provide similar treatment for individuals.

We are all aware of cases of individual taxpayers who, having realized capital gains during the year, sell property at the end of the year at depressed prices in order to realize offsetting capital losses. If the tax law accorded the same capital loss carryback benefit to individuals that it now grants to corporations, much of the pressure for year-end loss selling would be eliminated, and an artificial depressant on the economy would be similarly eliminated.

In withholding an amendment to the Revenue Act of 1971, I wanted assurance that if the Finance Committee, in its wisdom and in its own review of the amendment, hereafter does take favorable action on the proposal, it will adopt an effective-date provision confirming that an excess capital loss realized by an individual in 1972 can be carried back against a net capital gain realized by the individual in his tax year ended December 31, 1971, just as would be the case if the provision had been adopted as a part of the recently passed tax bill.

The intent, is to give to the individual taxpayer consideration equal to that now given to corporations. It is my belief that there should be continued encouragement to the individual; that he should be encouraged to join in the efforts to expand investment and create jobs.

Such a proposal obviously would have some effect on revenues to the Federal Government, but I am told that preliminary estimate indicate that the tax loss would be minimal in the short term, and negligible in the long term.

Mr. President, I hope the committee will give serious consideration to this proposal, and I hope that if its review of the matter results in adoption, it will be done in a manner to include the 1971 taxable year.

HEW SURVEY OF RACIAL ENROLLMENT IN SCHOOLS

Mr. STENNIS. Mr. President, the subject of desegregation in public schools is one that is arousing strong interest and vigorous debate throughout the country and in the Congress. Numbers of bills and amendments are pending in the House and Senate, dealing with busing, implementation of district court orders, limitations on actions of Federal departments, and similar matters. These legislative actions will receive careful attention in committee and on the floor, and it can be anticipated that some pronounced differences of opinion will be debated. The interest of the American people has been brought to bear very sharply on this subject.

I, for one, welcome this development. When the people's voice is strongly heard there will be action taken. I believe that in the matter of school desegregation we are about to begin a concerted move toward a policy that will be moderate in nature, will apply uniformly in all regions of the country, will place less emphasis on assignment of children to schools for purposes of racial percentages, and place more emphasis on providing quality education in neighborhood schools.

For the pending debate of this whole subject to be meaningful in the maximum degree, all of the facts are needed, and they are needed soon.

It will be recalled that the Department of Health, Education, and Welfare conducted, for the school years 1968–69, and 1970–71, national surveys of racial and ethnic enrollment in public schools. For the 1970–71 survey, certain data were made available by HEW in January of 1971, but the data were in such form that a comparison could not be made with the results of the previous 1968–69 survey. It was not until June, 1971, after the end of the school year, that a comparison of the two surveys became available.

I am informed that a third national survey of racial and ethnic enrollment is being conducted by HEW. The findings of this survey are a part of the facts that must be available to Congress in exploring the solutions to the present destructive actions that are taking place in the

nation's public schools. The results of the third national survey are needed at the earliest possible date, and if it should be necessary to release the data in preliminary form, subject to further refinement, the preliminary form should be such as to permit comparison with the two previous surveys.

Mr. President, under date of November 9, 1971, I wrote to the Secretary of Health, Education, and Welfare, requesting that the results of this year's survey be made available as soon as possible.

On the following day, November 10, I noted from an article published in the Washington Star that survey data were available on that date to the Board of Education of Prince Georges County, Md., in connection with HEW proceeding to withhold $14 million in Federal funds from the county because the schools are resegregating. The article is entitled "County's Dilemma," by Donald Hirzel.

Mr. President, I hope that when I receive a reply from the Secretary of Health, Education, and Welfare, he will give an assurance of the early availability of the findings of the third national school survey. I sent him a telegram on November 22, emphasizing the early need for this information.

I ask unanimous consent that my letter of November 9 to the Secretary of Health, Education, and Welfare, and Mr. Hirzel's article from the Washington Star be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., November 9, 1971.

HON. ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I am informed that the Department of Health, Education, and Welfare is conducting a third national survey of racial and ethnic enrollment in the public schools, similar to those that were made for the school years 1968–69 and 1970–71. It is my understanding that the suspense date for submission of survey data by school districts was established as October 15, 1971.

You will recall that for the survey of the 1970–71 school year, certain data were made available by HEW on January 4, 1971, and on January 14, 1971, in HEW Press Release A–20. These data, however, were in a form that did not lend itself to a comparison of the 1968–69 and 1970–71 surveys. It was not until June 18, 1971, that a comparison of the two surveys became available, in HEW Press Release A–66.

I hope your Department will expedite the compilation and release of this year's survey, and that it will be in a form comparable to the two previous surveys. I believe that members of Congress need the survey figures early in the session, for use in hearings and other legislative considerations, and that it would be unfortunate if the data were not available until the end of the school year, as was the case with the last survey. With a submission date of October 15 for the raw data, it should be possible for computer processing to be completed in a few weeks.

Please advise me when members of Congress may expect to receive the results of the survey of racial and ethnic enrollment for the current school year, in a form comparable to the previous two surveys.

Sincerely,

JOHN C. STENNIS,
U.S. Senator.

[From the Washington Evening Star, Nov. 10, 1971]

COUNTY'S DILEMMA—SCHOOLS RESEGREGATING

(By Donald Hirzel)

Some Prince Georges County schools, mainly in communities near the District line, are moving toward resegregation, school administration statistics show.

The statistics, ordered by the Department of Health, Education and Welfare, were given to the Board of Education yesterday.

HEW has begun proceedings to withhold $14 million in federal funds from the county because it feels the schools are failing to desegregate the student bodies and faculties.

At present there are 156,596 students in the county schools, of whom 22.4 percent are black, compared with 19.9 percent last year.

WHERE RATIOS ROSE

The statistics released yesterday show that some schools which had predominantly black enrollments last year, instead of gaining white students, actually have increased their black enrollment. The schools are in black communities developing near the city.

For example, Central High School has jumped from 66.7 percent black enrollment last year to 81.9 percent this year.

Fairmont Heights, which a few years ago was all black, is now 73.2 percent black, compared with 73.9 percent last year. Fairmont Heights was the scene of massive busing last year in an effort to achieve a more even balance between white and black students. However, many white students transferred to the school withdrew to go to other public schools or to private schools.

HEW has cited Fairmont Heights as one of the areas that should be desegregated. The school board rejected a busing program submitted to it during the summer which would have broken down some of the high concentrations of black students.

In the statistics the pattern becomes more pronounced in the junior high schools and elementary schools. For example, Kent Junior High, in the Landover area, increased from 82.4 percent black enrollment last year to 87.6 percent this year; Mary M. Bethune, in the Eastern Avenue area, has increased from 58.5 percent to 60.1 percent, and Thomas G. Pullen, off Central Avenue, has gone from 81.3 percent to 84.6 percent black.

Many of the schools in the older communities near the city reflect high percentages of blacks this year, moderate increases over last year. Ardmore has a 94.8 percent black student body; Beaver Heights, 100 percent; Columbia Park, 83.2 percent; Glenarden Woods, 99.8 percent; Highland Park, 98.1 percent; Palmer Park 86.6 percent, and Seat Pleasant 97.3 percent.

SCHOOL NEGLECT CITED

One of these schools, Pullen Junior High, also is suffering from neglect, the school's PTA president told the board yesterday.

Joseph Amaral Jr. said that as a result of overcrowding the school has become a "storage and discipline center for unhappy teenagers, frustrated administrators and disillusioned teachers."

He said the conditions are due to "either a callous, indifferent attitude by our school officials or a blatant case of discrimination."

Amaral said the overcrowding at his school could be relieved by transferring students to schools with under-capacity enrollment.

Jesse Warr Jr., the only black member of the school board and one of its leading advocates of school desegregation, said in an interview that resegregation is occurring because of housing patterns.

Warr explained that more and more blacks are moving into the county from Washington and many are buying lower priced homes located, for the most part, in the older communities near the city.

He said he believes the pattern can be reversed in the long run by dispersing blacks throughout the county, rather than concentrating them in specific areas.

Warr said the school system also could adopt a policy guideline insisting that new schools, when opened, reflect the racial balance of the county.

A CRISIS IN CRIME: A SENATOR LISTENS

Mr. CHURCH. Mr. President, the Senate Special Committee on Aging devotes much time and effort to field hearings and field visits.

We on that committee think that we can learn only so much in hearing rooms of the Senate office buildings.

We feel that we should hear directly from the elderly themselves; we feel that we should hear from those who work with the elderly; we feel that there is no substitute for grassroots communication.

My immediate predecessor as committee chairman, the Senator from New Jersey (Mr. WILLIAMS), heartily subscribes to such convictions. He has long been an active searcher out after facts on everything from quackery to the harmful effects of involuntary relocation.

As chairman of our Subcommittee on Housing for the Elderly, Senator WILLIAMS has become especially concerned about the effects of crime and vandalism upon elderly tenants in federally assisted housing. At a hearing a few weeks ago, he heard example after example of elderly persons living like prisoners in their own apartments: afraid to go out at night, afraid to take their social security checks to the bank, afraid of beatings and worse. One 72-year-old man, who had a job a year ago, now is on welfare and he is suffering from a nervous condition. A mugging and a robbery have changed his life around completely.

Even such compelling testimony cannot tell the entire story. A few days ago, Senator WILLIAMS visited a public housing project right here in Washington, D.C. A sensitive report, written by Richard Critchfield, of the Washington Star, told what happened then in a story which appeared on November 26.

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

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

A SENATOR LISTENS

(By Richard Critchfield)

"You asking me?"

Mrs. Eva Lackey, 86, of 1101 7th St. SE told her surprise visitor she had no idea what could be done about "a crisis in crime" against old people.

But her harrowing account of life in the Arthur Capper public housing project left Sen. Harrison A. Williams Jr. (D-N.J.) persuaded it certainly exists close to the Capitol.

Williams, like most senators, has visited ghettos mostly in his home state. But as chairman of the subcommittee on housing for the elderly which is now investigating crime and as the victim of a holdup a few years ago in his southwest garage—he wanted to see how things were close at hand.

Williams and two aides visited several elderly residents at Arthur Capper and the Potomac Gardens public housing project on Pennsylvania Avenue at 13th Street Tuesday.

Mrs. Lackey gave him an earful.

She said her single-bedroom apartment has been broken into eight times, that last month a group of youths tried to kick the door in one night and that it is impossible to get mail delivered—the letters are stolen and torn open for possible Social Security, pension and welfare checks.

Mrs. Lackey said she used to keep a .32-caliber revolver until that was stolen too, unfortunately, "because I'm a dead shot."

Williams saw rifled mailboxes in the hallway, a floor littered with bits of torn envelopes and an empty apartment next to Mrs. Lackey's used as a "shooting gallery," with bottle caps used to heat heroin, spent matches and a piece of surgical tubing on the floor.

A remarkably cheerful and spry old lady, Mrs. Lackey told the senator that the night the youths tried to smash her door in, she had called back, "Just stay there. I called the police. I'd like you to stay there until they come."

She paid $36 a month for her apartment. A policeman's daughter who has been widowed 45 years, Mrs. Lackey lived on her pension earned after 21 years with the Justice Department.

She explained to the senator that the only safe way residents of her building can get their pension, Social Security and welfare checks is to meet the mailman themselves. When her checks came, she said, she quickly made out a bank deposit card, put both in an already addressed envelope and put that into his mailbag before he moved down the street.

Mrs. Lackey showed no sign of feeling sorry for herself, even though she portrayed life in Arthur Capper as a continuous battleground. "When the younger boys get hurt, I'm a first-aider and I tend to them," she said. She felt most crime was committed by youths 15 to 20 or older.

"There's no rule, rhyme or reason for it," she lamented. "They sing in the hall all hours of the night, there's people who sell dope right in the building."

She ruled out unemployment as the basic cause for rising crime rates. "There are jobs there for people who want to take them. I don't think some of them want jobs, they'd rather steal."

Williams came back from the visit convinced the city was of elderly people who feared for their safety and were so afraid to leave their apartments they were, "in effect, prisoners in their own homes."

SEVAREID ON FOREIGN AID

Mr. CHURCH. Mr. President, the Senate defeated H.R. 9910, the House-passed foreign aid bill, on October 29 by a vote of 27 in favor of the measure and 41 opposed. This action, in my judgment, may be regarded in retrospect as a crucial occasion in terms of the future course of American foreign assistance programing.

Three days after the defeat, Eric Sevareid, commenting on the action of the Senate, discussed the reasons for the defeat and expressed the hope that radical revisions would be forth coming or else, he concluded in his television commentary—

We will have learned from experience that we are unable to learn from experience.

Mr. Sevareid's perceptions are succinctly stated and to the point. I ask unanimous consent that the text of his commentary be printed in the RECORD.

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

CBS EVENING NEWS WITH WALTER CRONKITE
(EXCERPT)

SEVAREID. The Washington air is filled with cries of horror, Pennsylvania Avenue flowing with tears, crocodile and otherwise. All because the U.S. Senate killed the foreign aid bill on Friday, the bill the President's people had said that he would himself veto if it sharply limited spending in Indo-China.

The White House now warns that the Senate action jeopardizes American security, others that it would create vacuums that Russia will leap to fill. The Washington statement-writing industry, cry of horror department, is in sad need of new blood. The liberal-conservative coalition that killed the bill did so because painful experience has proved that real reform of the program is impossible. There are times when no other instrument except the meat axe will serve; a surgeon's scalpel has never yet cleared a jungle.

This country is not about to stop helping disaster victims, refugees, Israel or hungry children. But if the Senate bloc wins this fight, we will stop or diminish surplus arms shipments to some 50 nations, loan arrangements that get poor countries hopelessly in debt to us, that mostly help the already affluent in those countries and amount to taxpayers' subsidies of selected American business firms. The Senate bloc also hopes to reduce an aid program bureaucracy that now uses more people to run the program in Brazil alone than the British used to run all of India before its independence.

It all goes back to World War II and the immediate postwar years. The approach got a new shot in the arm with President Kennedy and the academic intellectuals around him who thought we could renovate the societies of Latin America in ten short years.

The program has been endlessly tinkered with to no avail because many of its promises were simply wrong. One was that peace, democracy and material progress are not only good, each in itself, but somehow interdependent; another that American money, arms and advisers could produce the kind of governments we would like in alien societies and preserve them; another that the spreading gap between rich and poor countries would produce, not just human misery, which we must try to alleviate, but World War III.

There will be an aid bill, an aid program and an aid apparatus, but if they closely resemble what now exists, then we will have learned from experience that we are unable to learn from experience.

SENATOR SPESSARD HOLLAND

Mr. SPARKMAN. Mr. President, all Senators who had the privilege of serving here with Spessard Holland and, in fact, all those who knew him were shocked and grieved when word came that he had died.

Spessard Holland entered the Senate just about 6 weeks before I did. I had the pleasure of serving with him for more than 20 years. I came to know him as a Senator who worked hard, who studied the legislation before him, and who acted upon it conscientiously and with great legal and legislative ability. I often consulted with Spessard Holland on legislation before the Senate. He was always fair in his appraisal and was often most helpful to me.

Spessard was a gentleman in every sense of the word. He was a wonderful Senator and a good friend.

I believe everyone that knew Spessard and Mary Holland must have been impressed with the wonderful companionship that they manifested. I know the great loss that came to her and to their children when they had to give him up. Mrs. Sparkman and I extend to Mrs. Holland and to their children our deepest sympathy.

THE VIEW FROM JAPAN

Mr. HUMPHREY. Mr. President, I have been critical of this administration's policy toward Japan because I think that it is endangering our relations with that country. We have tended to shunt Japan aside in our recent diplomatic maneuverings, relegating her to a secondary role in international relations, when in fact she plays a major one. I have hoped that the administration would take appropriate measures to counteract its past diplomatic blunders which have created such grave misunderstanding between our two countries.

Months have passed since the President announced his trip to Peking and invoked his new international economic measures and since Secretary Laird visited Japan. Weeks have passed since the U.N. vote on the China question. Still there has been no attempt on the part of our Government to repair the damage. I am not saying that the United States is solely to blame since many of these questions are rooted in much older grievances. I am suggesting that the United States has been clumsy and insensitive in its handling of recent developments affecting the future of American-Japanese relations.

It is not enough to make these observations. It is urgent that we do something, and the administration's refusal thus far to take any action points up a much larger problem. Our willingness may not just be a question of how we view our own priorities; it may be a failure to understand the significance of what we have already done, and a failure to fully comprehend Japanese society. Perhaps, the most serious obstacle to international communication and agreement is the superficial acquaintance with foreign societies and cultures. A lack of sensitivity in this area, leads us farther astray in bilateral and international relations.

A case in point is Japan. I tend to believe that the administration's actions stem from incorrect perceptions of Japanese society and the role of Japan in future international relations. Mr. Frank Gibney, a well-known authority on Japan, has written an excellent piece in the last issue of Foreign Affairs. Mr. Gibney first wrote about Japan in 1953 in his book entitled "Five Gentlemen of Japan" and is now in the process of writing another. He learned to speak Japanese during his service as part of naval intelligence in World War II and has been living in Japan periodically. Frank Gibney is now executive vice president of Encyclopaedia Britannica in Tokyo, where he has lived for 6 years. Before that he was senior editor of Newsweek and an editorial writer for Life, so it is fair to say that Mr. Gibney is both an accomplished writer and an expert observer of contemporary Japanese society.

In his foreign affairs article, Mr. Gibney does a remarkable job of describing American insensitivity to the nuances of the Japanese character. By so doing, he points up the chances we have missed for the solidification of our relations into a true working friendship. He notes that the so-called dialog which has existed between Japan and America is much overrated.

Far from being simply critical, the author offers several suggestions which both countries can follow in order to reduce distortions in United States-Japanese relations. Among them are:

First. An American motion to have Japan seated as a permanent member of the Security Council.

Second. A joint-standing committee on trade to be established.

Third. Greater support to cultural exchange and information conferences begun by Ambassador Reischauer in 1962.

Mr. President, I recommend this article to the Senate and ask unanimous consent that it be printed in the RECORD.

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

THE VIEW FROM JAPAN

(By Frank Gibney)

After more than a quarter-century of formally close contact, the real relationship of the American and the Japanese peoples is like that of two men observing each other through the flawed glass and distorting mirrors of a funhouse. Their perspectives are strikingly, sometimes absurdly different. Our dealings of the last 25 years—one war, a successful occupation, unnumbered seminars, government conferences, student exchanges and an $11 billion yearly trade relationship—seem not to have clarified the view.

This would be tolerable in the cases of many nations less closely involved with one another, or in times less troubled. But Japan is not only the principal U.S. trading partner and a pledged political ally; it is the one great world power—outside the West European complex—which shares with the United States common social aspirations, a strikingly similar urban-technological way of life and an intelligent devotion to the democratic principle. The failure, more plainly, of Americans to see Japan and its people as they really are is coming to affect us badly.

For Japanese-American relations are backing into a crisis, in large part because neither party can perceive the other's position. Trade confrontations have escalated into virtual economic warfare. And politically, on the heels of Okinawa revisionism and vexing questions about Japanese "rearmament," came the July announcement of President Nixon's invitation to Peking. The 180-degree turn in the American attitude toward China, made conspicuously without advice from Tokyo and without informing Tokyo in advance, has dramatized the distorted perspectives as nothing else could.

Where and how do they differ? The View from There, *i.e.* the United States as the average Japanese sees it, is at least a three-dimensional study. He sees a people whose achievements and energies spell competence. His regard for American technological skill and the essential modernity of things American verges on the superstitious. American politics, as copiously reported in the Japanese press, may seem an unpredictable blend of toughness and indecision, but even among the far Left there is a certain respect for American "fairness" and "democratic principles."

Socially, the American comes on as likeable, with an enviable informality. (Americans visiting Japan after residence in Europe are interested to find that their nationality is no longer a pejorative.) Culturally, the kinetic modernity of modern Japan—songs, movies, TV quiz-shows, billboards, *sake* vending machines, business management seminars, even the majority of new phrases in its language—expresses itself in American terms. Hemingway, Faulkner and Norman Mailer are nearly as real to Japanese university students as their own Kawabata, Mishima and Kenzaburo Oi.

Thanks to the postwar occupation and their own peculiar reaction to the one military defeat in their history, the Japanese rarely think of the United States as an enemy, past or present—except in the sense of an economic competitor. The ultimate in cities remains New York or, more comfortably, Los Angeles with its Japanese hotels, banks, and shopping sections. The ideal vacation is to go to Hawaii. The ideal baseball team to beat is still the U.S. World Series champions.

Thus the image of America, as Viewed from There, is larger than life-size, and that presents a problem. Accustomed to thinking of the United States, variously, as an elder brother, a cornucopia, or an abode of inexhaustible resources, the Japanese find it hard to realize that a certain portion of their own prosperity is coming out of America's hide—and that this is increasingly resented across the Pacific.

There is one more conspicuous blind spot. With a deep inner pride in their own worth, the Japanese tend to assume that their intense scrutiny of American fads, social ferment, economic indicators, and legislative processes is naturally to some extent reciprocated. Of course it is not. The View from Here is cursory and casual. Its limits are accurately suggested by the relatively minuscule coverage of Japan in the daily and weekly U.S. press. To be sure, there is Economic Japan: a clouded but impressive picture of pell-mell, purposeful industry—Sony-Toyopet-Honda-tanker-Mitsubishi. But the "economic miracle" is generally presented as inexplicable, or the effect of "low wages" and "human wave" salesmanship. It still excites a kind of involuntary anger in American visitors to note that phenomena like the great super-trains of the New Tokaido line were designed and produced with no borrowing from Western sources.

Japan's politics and political figures are almost unknown. The same holds true for political parties, inner economic trends—aside from notes on new car exports—or social statistics. Where the Japanese newspaper reader and TV viewer receives a continuing report on the United States, the comparable American reporting on Japan is spasmodic and hence over-dramatized when it appears, *e.g.* a picture of an isolated student riot in Tokyo, selected by an editor principally for its violence, will probably be all that the average, well-informed American knows about the Japanese university.

About one of the world's liveliest and most sophisticated literatures the American knows nothing, except when one of its major exponents either receives the Noble prize or commits suicide. He is unaware of the urban ferment in discoveries, ideas and new designs for living going on in Japan—the only country whose mass communication and city civilization are facing precisely the same problems of transport, pollution and so on as his own—barring, of course, the racial one. The quaint Japanese are cracking the technological sound barrier right behind us.

Yet behind the textiles and transistors, the American, so relatively sophisticated about the changing situations of Britons, Italians or Russians, sees in the Japanese the same 25-year old image which American soldiers originally brought back from the occupation days: smiling, polite little people (if on occasion deceitful) who are hard-working but inscrutable, living in a lovely country with a big snow-capped mountain, fragile temples, inept taxi drivers and of course, geisha. It was a significant commentary on the View of Japan from Here that *Time magazine,* in an otherwise thoughtful cover story on Japanese business last May, saw fit to illumine its last page with an utterly implausible photograph titled "Businessman Relaxing with Geisha," showing two nude figures in a hot spring bath.

Indeed, the American historical image of Japan is worse. For the myth of the Japanese as a bayonet-wielding soldier, perpetrating the rape of Nanking, somehow was ground into our consciousness through all the "save China" rallies of the thirties and the stored racial prejudice of an earlier era. Japan still bears the marks of an enemy country. Long after the Germans of World War II have resumed their popular status as beer-drinking efficiency experts and shortly after the Chinese hordes who slaughtered Americans on the Yalu in 1951 were transformed into cheerful ping-pong-players, the memory of Pearl Harbor somehow remains green.

Japanese travelers in the United States do not help the image much. Business contacts excepted, their social shyness, linguistic failings and over-sensitivity to mistakes in front of foreigners drive them into self-chosen cultural ghettos. Whether in New York, Düsseldorf or Paris, all but the most sophisticated Japanese businessmen head like homing pigeons for their cotes in the local Nippon Club. This voluntary seclusion adds to the idea of a people hopelessly "inscrutable."

II

If not inscrutable, the Japanese are undeniably unique. Japan is best described as a nation society—a tightly threaded 2,000-year old mesh of human fabric, with an extraordinarily broadly based culture, a low common denominator of artistic tastes and living standards and a talent for narrowing the national energies to certain shared tasks or objectives. It is a meritocracy, where almost every bright boy (and most bright girls) can get to college if he passes the exam. It is a consensus-style democracy, where it is considered bad form for the majority to outvote the minority without compromise. In fact, the Japanese have long achieved of their own free will the kind of society that Marxist ideologues only dream about.

Japan continues to have a recognized Political-Economic-Social Establishment, at a time when from New York to Moscow almost every other Establishment is on the run. The Japanese cult of industry, their strong sense of community, their patience and adaptability to crowded conditions have given them a marvelous cushion against modern technological and cultural shock. The problems that Western man is now desperately trying to solve—how to preserve one's individuality in a society taken over by "group-think," how to develop a social ethic, if not a new morality, strong enough to hold its ground against the pressures of mechanistic progress—the Japanese have been working out for centuries. Like an early commuter who has waited all night for the morning bus, the Japanese is there already.

The Japanese can wax indignant over rising prices, bad housing or faulty sewage systems—and their new consumer movement is formidable—but their resiliency remains prodigious. A U.N. survey recently showed how in all West European countries the incidence of crimes of violence always increased as living standards rose; but in Japan it decreased. In adding his own appreciation of Japan's high social boiling point, a columnist for Tokyo's *Asahi* wrote: "Given what we have here—the world's highest rise in commodity prices, horrible pollution and

environment problems, severe housing difficulties—the people of any Western European country would probably have thrown out their government many times over. . . ."

It is partly this kind of inspired groupiness that made the success of "Japan, Inc." so spectacular. But there is another reason: the protective insulation of Japan over two decades. During this time the country could gather its energies for a leap forward quite as it had in the last years of the Tokugawa period, before the samurai of old Edo had become the technicians of the Meiji Restoration. It might be said that the Japanese, considered as members of the world community, passed with rocket speed from the militarist thirties to the scientific sixties, without ever having really lived through the international turmoil of the forties and fifties. In the light of the changes now being wrought by the post-industrial society and the overturn of methods and thought-patterns that the forties and fifties considered modern, this asset seems considerable.

This is hardly to say that the Japanese missed the quarter-century of history which included war and the A-bomb. But during this time they were isolated from the sense of living in an international community, thanks first to the censorship of the militarist government and, later, the avuncular embrace of MacArthur's occupation.

When Japan's energies were released, she immediately fell into the pursuit of economic gain. With undemanding political leadership and an ultimate guarantee of safety under the American nuclear umbrella, the Japanese felt free to concentrate on being "economic animals," and showed a conspicuous disregard for the sensibilities of both their customers and rival tradesmen in the process.

In so doing they also almost deliberately ignored the political conflicts of the ideologically divided world around them (other than to make considerable economic profit from the war in Korea). Intellectuals, comfortably protected from the invasions and implosions of world communism, continued to denounce the fascism and militarism of the thirties as the prime enemies. The people as a whole, having fallen into a chronically Japanese situation of mass dependency during the U.S. occupation, tended to feel that international politics, pro-American or no, were simply not Japan's concern. This political myopia plagues Japan to this day.

Over the last few years, however, the mood has changed. "Economical animal" is becoming a dirty word. A new generation is emerging—more traveled, more outspoken and, indeed, physically bigger than its elders, thanks largely to the spectacular changes in the Japanese diet. There is little of the obviously revolutionary about this generation in Japan. Although young people are quick to denounce inept bureaucrats, greedy businessmen or excessive ceremony, they are possibly less discontented with the structure of their society than young people anywhere. The new generation is genuinely internationalist-minded, with an almost desperate urge to be thought cosmopolitan. It is also vigorously proud of being Japanese, at least tolerant of the Emperor system and anxious that Japan play its rightful role as a great power.

The problem is how. Japan's current political leadership is hardly inspiring. The Sato government has steadily played cautious international politics, content to follow the U.S. lead in most matters, and conservative to a fault. The Socialists, the major opposition party, are not only committed to a kind of high-buttoned shoe Marxism which flies in the face of Japan's economic reality, but their Mao-first, anti-imperialist foreign policy embarrasses the other opposition parties, including the Communist. No party, statesman or party faction has yet appeared who can either rally both Right and Left behind a new foreign policy or dramatize such a policy to the people over the heads of the party leaders.

The Japanese make decisions by consensus. Until a national consensus has been taken, no really active diplomacy is possible. There are signs that a consensus is in the making, impelled by everyone's rising consciousness of great-power status. Major realignments of the two principal parties, at least, are taking place. But until the country makes up its mind, there will be no movement. Many compare this period with the middle and late thirties, when a similar debate was taking place over whether Japan should continue its militarist course, hold its gains, or retreat.

The current drift of thinking, however, is miles away from militarism. The country, most particularly the younger generation, is still determined that a modern great power need not be a military power. Having had their one losing war, the Japanese do not want even the risk of another. Nor has the American failure in Vietnam been reassuring about the virtues of conventional military power. As the almost desperate recruiting posters of the Self-Defense Forces suggest, it takes a lot to get young Japanese marching. They may be fascinated with the currently popular revival of old war songs and memoirs, but this is no more to be confused with a new militarism than Yukio Mishima's startling *hara-kiri* suicide. It is no coincidence that the country's number one popular hit song is called *Senso wo shiranai kodomotachi*—"Children Who Have Never Known War."

The feeling also grows that Japan has too slavishly followed American policy, that Japan alone of the major powers is still practicing bipolar diplomacy in a changed world. This mood has been fueled by the fuss over Okinawa, by the heavy protectionist and rearmament pressure from the United States and, not least of all, by the unilateral China policy of the United States. Not since the sudden flare-up of the 1960 riots against the Japanese-American security treaty has the American-Japanese political relationship been so problematical.

The so-called dialogue which has existed between Japan and America is much overrated. It is, in fact, little more than a series of meetings, seminars and symposia, held by generally the same group of participants—a coterie of U.S. experts on Japan and Japanese experts on America who are well accustomed to hearing each other's views.

Nor have the two governments helped much to clear the view. They have been curiously passive, if for different reasons.

The Japanese Foreign Office is a group of competent professionals who have the misfortune of working without any firm foreign policy to interpret. After the late Premier Shigeru Yoshida laid the foundations for the Japanese-American alliance (while opting out of anything like a military commitment to it), his successor, Hayato Ikeda, went on to further the Japanese economic miracle with a low-posture diplomacy to match his government's self-effacing politics at home. Premier Eisaku Sato has continued this modest stance, partly out of reluctance to exacerbate his domestic problems. Only on economic matters does Japanese diplomacy go into high gear, quick to mobilize in support of the errant businessman. In contrast China, where economic considerations are unfailingly sacrificed to political, Japan's diplomats are instructed to put the economic first.

As a corollary of this, the information effort of the Japanese government is minimal. Even Japan's representation on the U.N. Secretariat is less than half the desired maximum, despite the obvious competence of Japanese civil servants. The Japanese government has yet to develop even a large-scale program for educating students from other Asian countries in Tokyo or, to begin with, teaching them Japanese.

In Southeast Asia, where Japan has a huge economic stake, Japanese businessmen are about as popular as Yankees in Chile. It is a galling fact that the headquarters of the Asian Development Bank, an institution largely dependent on Japan for its success, had to be located in Manila rather than Tokyo because of general anti-Japanese prejudice. (Japanese aid programs tend to be cautious and, in relation to the country's GNP, minimal—another source of resentment.)

Yet with all these handicaps, and despite the emerging national consensus that international communications must be improved, Japan has yet to make a national effort to meet the outside world. The nation will put its best face forward for a 1964 or a 1972 Olympics in Tokyo or Hokkaido, or a 1970 World's Fair in Osaka; everything will be done at such times to assure the happiness of the visitor from Oswego or Indianapolis. But as for presenting the Japanese case in Oswego or Indianapolis, that is a different matter. There is still too much stored ethnic and cultural arrogance within the Japanese and too much visible doubt as to what role he should or could assume in a world outside which is, after all, peopled with foreigners.

III

By comparison, the American government, like American business and academic interests, has every advantage in presenting the American case to Japan. The basic national sympathy toward Americans is so strong that Japanese criticism of the whole Vietnam involvement, through the last seven years, has been, in a relative sense, mild. And Japanese diplomacy gives the impression of an interested bridge partner, waiting to follow the first good bid from the American side.

Good bids have been hard to find. Although the U.S. Embassy in Tokyo is one of the world's largest, it has since the departure of Edwin Reischauer in 1967 largely confined itself to a low posture, of which the most self-effacing Japanese diplomat could be proud. All the visibility comes direct from Washington. The number of U.S. diplomats who speak adequate Japanese is shockingly limited as are the linguists in the U.S. business community. And both groups, not to mention the great bulk of the U.S. press corps, remain largely sealed off from the life around them, for social as well as linguistic reasons.

For all their trust in technology, the Japanese remain an intensely ceremonial people, with an abnormal appreciation for a good or graceful gesture and an abnormal sensitivity to a bad one. Manner is almost as matter to them. They abhor open controversy, except in recognized public bear-baiting sessions like the Diet where it is part of the established order. They dislike litigation, and lawyers occupy an interestingly humble position in their councils. The American businessman who makes decisions and deals after long confrontations between rival teams of lawyers and accountants finds that such forensics often boomerang disastrously.

Despite this obvious Japanese fact of life (which, indeed, General MacArthur exploited to the full in a gesture-packed occupation), the executors of American foreign policy have ignored the advantages of the right gesture or the apt courtesy. On the contrary, in recent years they have concentrated on making the relationship with Japan an exercise in open confrontations and public pressures. Even more than most, the Japanese find it hard to understand our penchant for installing the adversary system of justice in diplomacy.

The three crises which have lately arisen between the United States and Japan are symptomatic of this problem: (1) the trade imbalance, with the loud revival of American protectionism; (2) Japanese rearmament and the U.S. nuclear defense, originally touched off by the Okinawa reversion movement; (3) the projected new American relationship with China, with the implied nese and the American sense for what is ap-

downgrading of the U.S.-Japanese alliance. None of them need have reached a crisis point. But in handling all three, the Japanese and the American sense for what is appropriate grew ever further apart—so that the View from Here and the View from There might be from different planets—on the American side, unnecessarily public confrontation politics, on the Japanese side smouldering, but stubborn resistance and resentment.

The textile controversy first damatized the sharpness of economic competition between Japan and America, which grows worse almost hourly. Even allowing for President Nixon's new ten percent import surtax, the imbalance of trade between the United States and Japan this year come close to $2 billion, in Japan's favor. Not since 1965 have accounts been reasonably equal. Japan makes most of its export money to the United States by straight sales, while a good bit of the American export to Japan takes the shape of direct or indirect investment, royalties, patent rights, and so on. Foreign investment in their country is a traditional sore spot with the Japanese, who had the Meiji Restoration, among other things, to forestall it. Japan not only subsidizes its exporters, but fences in foreign investments and imports with an anachronistic web of legal and bureaucratic restrictions unworthy of a great power. While Japanese TV sets, motorcycles, small cars and steel were crashing into the U.S. market, U.S. exporters and investors continued to be cut off from fair competition in Japan. The Americans have just cause for complaint, which the Japanese belatedly recognize.

The Nixon administration set out to solve this problem, however, in the worst possible way. Early in 1969, even before an ambassador had been appointed, the new President sent Secretary of Commerce Stans to Tokyo to give the Japanese government a widely publicized lecture on what would happen if they did not moderate excessive competition with American textile manufacturers.

It is well known in Japan that textiles are far from the most important export to the United States (electronics and automobiles make up 30 percent, textiles barely 10 percent.) It was also widely believed that President Nixon had promised various Southern statesmen to ease competitive pressure on textiles in return for their votes.[1] (The same articles discussing this in the U.S. press were faithfully translated and read in Japan.) As the U.S. government kept publicly emphasizing demands for Japan itself to restrict textile exports to the United States, Japanese indignation went up proportionally. Japanese textile manufacturers have their political lobbies, too, and the somewhat leftist press is always quick to headline any point of confrontation with the Americans. Over the past two and a half years every step in the textile negotiations has been scanned with a magnifying glass on page one of Japanese newspapers.

Meanwhile, more important economic dangers were neglected, more opportunities for negotiation overlooked. On the contrary, when the dollar was suddenly cut loose from gold and the surtax invoked, Washington left little doubt that its principal target was Japan. On no European country ever has the United States publicly used such bludgeoning tactics. On no other country could such tactics have a worse effect. "Never push an adversary into a corner," the late Prime Minister Ikeda was fond of saying, "you give him no room to manoeuvre and he becomes desperate."

The problem of Okinawa and its bases showed the same pattern of neglect, irritation and ultimate crisis. It took 20 years of studiously unimaginative U.S. military government to turn the Okinawans from poor relations of Japan, who in the late forties would have welcomed American annexation outright, to the angry irredentists of the nineteen-sixties. Five years too late for it to be a graceful gesture, the United States agreed to give up Okinawa by 1972. But the Administration's sudden decision to leave ratification of the Okinawa Reversion Treaty to the Senate, where the textile lobby might conceivably block it, removed even the traces of goodwill.

The current stipulations about the United States retaining bases, with the furor over poison gas storage on Okinawa, have brought a second wave of agitation against any special future status for Okinawan bases whatsoever. Here, just as with the trade controversy, the Japanese press headlines the slightest news development, while American readers and viewers remained until recently ignorant that there is a controversy at all.

In the wake of this—and just shortly before Mr. Kissinger returned from China—Secretary of Defense Laird made his recent, well-publicized visit to Tokyo. The Secretary may have been careful in his public statements, but both U.S. and Japanese newspaper reports suggested, most forcibly, that his visit was: (1) part of an American campaign to make Japan increase her conventional armaments; and (2) a corollary effort to persuade Japan to develop her own nuclear warfare capability, in case the so-called U.S. nuclear umbrella over Japan suddenly had to be folded, *e.g.* as a result of SALT commitments.

To the Japanese, the two pressures seemed paradoxical. On the one hand the United States urged them to increase their conventional military forces, designed from the beginning purely as back-up to the American nuclear protective power. Then, in the same breath, it was suggested that this nuclear protection may have to be curtailed. (Meanwhile, some U.S. Congressmen had recently visited Premier Sato to express their concern at the possibility of Japan going "militarist" again.)

From Washington it may have seemed only simple logic that the Secretary of Defense would advise the Japanese to strengthen their own military commitment, now that the United States was phasing out of Okinawa and feeling a general financial pinch about all military commitments overseas. This was, indeed, only a logical continuation of a consistent U.S. effort, begun only five years after MacArthur's anti-war constitution, to have Japan increase its forces.

The View from There is quite different. The Self-Defense Forces in Japan are barely past the status of a public embarrassment. Most Japanese continue to think that a strong economy and a unified society are worth more than numerous divisions. The need for armed forces may be understood by some, but not by many.

Some Japanese commentators even extrapolated the belief that the Laird visit was in fact timed to fit the Kissinger visit to Peking, as a reminder to the Chinese that the United States could still exert military pressure on them, via Japan. However, far from the truth this may be, it had an effect on Japanese intellectuals comparable to the popular indignation against the proposed Soviet fleet maneuvers off Shikoku last year.[2]

IV

The new American relationship with China has brought alive the historic triangle among the three countries, in which the roles of wife and mistress seem to keep switching. Although China's past role in this relationship was more that of a patient than an agent, this can hardly be said today. To many Japanese—right-wing businessmen as well as left-wing editorial writers—China to the west represents a strong and needed counter-attraction to the heavy American magnetic pull eastward. (Russians are not much liked in Japan, and their negative postwar diplomacy toward Japan has yet to help the image.) Many elements are involved—curiosity, a bookish nostalgia for China's classical culture, guilt over the Japanese spoilation of China for many decades, not least of all the fascination of opening a new vast hinterland for Japanese products.

Yet for all the talk of *Do-bun do-shu*—"Common culture, common race"—the Japanese do not know China well and have only a superficial interest in knowing more. Fewer than 2,000 students are currently studying the Chinese language, far less than those studying Spanish. There is no modern literature about China to compare with the tons of published comment and translated works on Europe and the United States. Japan's basic concern with China is no more than an unsentimental wish to establish some kind of lasting relationship with such a vast and fearful neighbor—but no less, either.

No one responded with more enthusiasm to Chou En-lai's ping-pong diplomacy than the Japanese. Even the Sato government, borne on a groundswell of public opinion, felt it time to change the attitude toward China from the current opportunistic economic relationship, called by the uninhibited *dogeza gaiko*—"kow-tow diplomacy"—in which Japanese trade representatives and unofficial diplomats regularly make the pilgrimage to Peking, and receive fairly substantial orders after signing declarations denouncing Japanese "militarism," which are then disavowed by the Administration in Tokyo.

Cautiously, Premier Sato's government began to make some overtures. At the same time, Foreign Office spokesmen continued to stress Japan's strong adherence to a joint U.S.-Japanese approach to the China problem; and in particular, regarding Taiwan, where Japan has large business interests.

It was at this point that the Nixon announcement struck with the suddenness of a bucket of cold water. Premier Sato's whole foreign policy toward China, a scaffolding built on the American model, tumbled overnight, as government spokesmen had to admit they had known nothing of the Kissinger visiting until the very instant before the President's announcement.[3]

On the surface, Japanese reaction to the United States overture to China was and is favorable. The current in favor of recognizing China has been running stronger in Japan than in the United States. But underneath ran an undertow of resentment. The Nixon announcement confirmed a long-gathering suspicion that, in any really important Asian diplomacy, the United States would go it alone. Comments ranged from "That proves that there is no Japanese diplomacy" to "In this world, there is no Japan." Trust in the United States has been cracked, and it may never be wholly put together. "Nixon finally freed us," one Japanese friend said to me. "We need never be bound to you again."

As of this writing, the U.S. government has not yet seen fit to make any substantial gesture toward Japan to balance remotely the Peking visit. President Nixon's announcement—made a few days after his surtax declaration—that he would meet Emperor Hirohito's Europe-bound plane in Alaska

[1] Imports from Japan amount to a total of two percent of U.S. textile production.

[2] In March 1970, the Soviet government notified Japan that some of its fleet units would be holding firing practice off the coast of Shikoku, as well as certain other areas north of Japan, the following month. Although these maneuvers were probably part of a pattern aimed to exert *indirect* pressure on China, Moscow completely underestimated the *direct* Japanese reaction. After Foreign Office protests, the Soviet government agreed to cancel the whole business.

[3] Japanese recalled, with some irony, that Premier Kiichiro Hiranuma, Japan's prewar pro-Axis leader, had resigned under similar circumstances, after denouncing the "monstrous complications" of diplomacy, when he was surprised by the announcement of the Nazi-Soviet pact in 1939.

hardlly seems to qualify. It is true that nations and peoples see each other through a glass darkly. But not often in national relationships has there been such a confused view of what is important in such an important relationship.

Some things could be done to make the U.S.-Japanese relationship less distorted.

(1) A major step would be an American motion to have Japan seated as a permanent member of the Security Council, along with communist China, in the realignment of that organ which seems inevitable. Japan is a great power in the sense that some present Council members are no longer. A wish for permanent representation in the Security Council has been growing strong in Japan. Yet, in all the talk about the United States sponsoring mainland China membership, in the United Nations and on the Council, only one or two voices have been raised to consider the Japanese.

(2) A joint standing committee should be established to review the Japanese-American trade relationship and suggest mutually palatable ways of easing strains in it before the next venture into courtroom diplomacy. This would mercifully supplement the current periodic, formal joint Cabinet-level meetings.

(3) The cultural exchange and information conferences, started by Ambassador Reischauer in 1962, should receive heavy support both from government and industry. The work should include regular conferences between editors, which might persuade some Japanese journalists that a consistently negative anti-American attitude is not necessarily good news and might persuade their American counterparts that there is a flesh-and-blood Japan, apart from the "bullet train and geisha suicides."

(4) Both the United States and Japan could profit from a structured interchange of ideas on how to deal with the urban technological revolution. Their problems are astonishingly similar both in their scope and their degree of urgency.

(5) Some further work should be done on the reduction of American bases in and around Japan, and either a clear reaffirmation, a clear restatement, or a clear rejection of the nuclear umbrella principle. Before the Nixon announcement about China, one could have said flatly, "The Japanese will not take to nuclear weapons in the next decade, if at all." Now, there is some doubt. Too many American voices have lately been calling the nuclear umbrella into question.

The Japanese have their own fences to mend. The holier-than-thou attitude of Japanese businessmen about American protectionism ignores their own underbrush of protection at home and the hostile measures taken, until recently, against any foreign investment—not to mention the foot-dragging on yen reëvaluation.

These steps may seem weak and incomplete but they would be the beginning of a coöperation long overdue. For behind the distortions in the View from Here and the View from There is the basic breakdown of an alliance—an alliance which began as a military pact with one very senior and one very junior partner. This is so no longer. Japan is no longer a client state, nor must the United States be forever cast in the role of an understanding protector. On the contrary, these are two great powers, with essentially common objectives, vast resources, and few points of friction, present or foreseeable that could not be negotiated on equal terms. It is not too late to reconstruct the alliance on new principles, in which an element of military protection can remain, but subordinate to more positive goals of coöperation in technology and education and an improvement of living standards in the whole area of Asia and the Pacific. But if some drastic changes are not made in its shape and functions—and most importantly, in the commitment of *both* peoples to it—the alliance will soon be dead.

MOTION PICTURE PIONEERS OF THE YEAR

Mr. GRAVEL. Mr. President, "Motion Picture Pioneers of the Year" is a high honor which has just been bestowed. More about it later.

Two men who exemplify American achievement are Samuel Z. Arkoff and James H. Nicholson. Both were of a very modest means when they formed a company in 1954 to produce and distribute motion pictures. Their capital was $3,000 loaned by a friend who had confidence in them, and their other assets were the trust in which they were held by their associates and their own self-respect.

Today American International Pictures, of which James H. Nicholson is president and Samuel Z. Arkoff is chairman of the board, is a leading supplier of motion pictures. And it has had the longest continuous management by its founders of any such organization in America today.

Samuel Arkoff was born in Fort Dodge, Iowa. Although no one in his family had been interested in the entertainment business, he was. After attending the University of Colorado and the University of Iowa he studied law at Loyola University in Los Angeles. While studying for his legal degree he worked in the then-aborning television business. During World War II Arkoff was a U.S. Air Force cryptographer.

James Nicholson is a native of Seattle, Wash., but his early experience in the motion picture business was in San Francisco, where on his 16th birthday he applied for an usher's job in a movie theater, was accepted, and proceeded to learn everything he could about theater operations. To this day Nicholson can run a projector and splice film.

American International Pictures has distributed to theater or television outlets 450 feature films, many of which it has produced, and some that have been acquired. Today this firm releases a minimum of 26 new motion pictures each year, one of the most impressive totals in the industry. It has 29 exchanges in the United States to provide local service to exhibitors and its films are shown throughout the world.

Thanks to the creativity and sensitivity of Samuel Arkoff and James Nicholson, American International has been able to anticipate the taste and interest of important segments of the public and thus has started trends in types of films that have had wide acceptance.

Upgrading of subject matter has always been a concern of Nicholson and Arkoff and their company is now stressing the social and box office value of classics. American International's "Wuthering Heights" and its release of "Julius Caesar" were among the fine attractions recently provided and "Camille," "The House of Seven Gables" are now in production. Robert Louis Stevenson's "Kidnaped" will be available in January.

Arkoff and Nicholson are an American success story, and they are something else too. They have continuously given their time and effort to help others, particularly young people. They and their company have been tireless supporters of Variety Clubs International, which has raised more than $160 million to give children all over the world better lives and better health. Nicholson is an International vice president of their show business charity organization.

Arkoff and Nicholson, who live in California near American International Pictures' home offices in Beverly Hills, are family men. Arkoff is a frequent speaker at colleges and student forums.

"Motion Picture Pioneers of the Year" is certainly a fitting accolade for John H. Nicholson and Samuel Z. Arkoff. In a sense, they are motion picture's pioneers for many years.

Six hundred leaders of the motion picture industry attended the 33d anniversary dinner of the foundation of the Motion Picture Pioneers, Inc., in New York City, to pay tribute to Sam Arkoff and Jim Nicholson on November 22, 1971. They were presented plaques on behalf of the foundation, one of the most prestigious in the entertainment world by Sherrill C. Corwin, president of Variety Clubs International.

Cecil B. DeMille, Adolph Zukor, Darryl Zanuck, and Spyros Skouras are among the 27 motion picture "greats" who had been honored over the years at previous ceremonies. Now John H. Nicholson and Samuel Z. Arkoff have earned and been given this recognition by their peers, as motion picture pioneers of the year. They are a credit to their industry and their Nation.

FREEDOM, LIE DETECTORS, AND THE COMPUTER AGE

Mr. ERVIN. Mr. President, yesterday's New York Times contains an article by Ben Franklin on the use of lie detectors in America to try to determine whether or not a man is fit for employment.

Mr. Franklin has again done some excellent research on governmental and private practices which affect the privacy and constitutional rights of thousands of Americans. His report is alarming, for it reveals that—

> About two hundred thousand persons in private employment—not counting thousands of others in Federal, state, and local government—will be subjected to lie detector, or polygraph examinations this year.

The Constitutional Rights Subcommittee study of privacy and the first amendment has shown that in this computer age, every detail acquired from investigations about a person's life, habits, attitudes, and beliefs can be programed in codes and made available in seconds through cross-country electronic and machine transmissions. Computer printouts aid in this ever-increasing exchange of information among Federal, State, and local governments and among private agencies and corporations. If our freedoms are to remain secure, it is more important than ever that in this sometimes bewildering technocratic age the individual be assured that the information conveyed about him be correct, current, and relevant to the decisions being made about him.

For this reason, all Americans, I believe, will be concerned about Government's use of machines to try to compel people to reveal their innermost thoughts about the most private matters in order

to obtain employment. They are increasingly concerned that this attitude toward voluntary expression and toward rights of freedom of thought and mind is being emulated by private industry throughout the country.

On the basis of my research while serving as a judge, I came to the conclusion that the use of these machines on Americans was a form of 20th century witchcraft. I have seen no documentation which alters my view, and Mr. Franklin's investigation merely serves to reinforce my convictions. I was particularly impressed by his account of research which shows that a plant, hooked to the galvanic skin reflex portion of the polygraph, responds with human-like tracings of anxiety when it is threatened with burning by a match or is spoken to harshly.

Mr. President, I realize that many people want to use any methods in the name of efficiency and economy, and I realize further that many folks simply do not want to be interfered with in using such practices.

In spite of this, however, I introduced S. 2156 to protect the privacy and first amendment rights of all Americans. While this bill would not affect law enforcement or State and local governments, it would prohibit the compelling of Americans to submit to lie detectors in order to obtain or to hold a job in the Federal Government or in industries whose activities affect interstate commerce.

The Constitutional Rights Subcommittee is now considering this bill and it is my hope that hearings can be scheduled in the next session to consider all points of view on this problem.

I ask unanimous consent that this perceptive and illuminating article by Ben Franklin, entitled "Lie Detector's Use by Industry Rises; Rights Peril Feared," be printed in the RECORD.

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

LIE DETECTOR'S USE BY INDUSTRY RISES; RIGHTS PERIL FEARED

(By Ben A. Franklin)

WASHINGTON, November 21.—The lie detector, a device known to millions of readers of Dick Tracy as an implacable breaker of hardened criminals, is quietly coming into far wider use as a "truth-telling" informant in the world of ordinary sinners.

In a decade of rising crime, corporate and insurance company losses from embezzlement, pilfering and outright theft by employees in retail sales, warehousing and delivery services have soared steadily to $10 million a day—more than $3 billion a year—according to the Insurance Information Institute. The losses are greater than those from conventional robbery and burglary together.

More and more, employers have been striking back, trying to weed out dishonest workers by forcing employees to take—and pass—lie detector tests, either as a consideration of continued employment or as part of a pre-employment screening process.

About 200,000 persons in private employment—not counting thousands of others in Federal, state and local government—will be subjected to lie detector, or polygraph examinations this year, according to one informed estimate. Many will fail, although how many will probably never be known. "Discretion," a self-imposed rule of secrecy, veils much of the polygraph industry's impact.

But the spread of commercial lie detector testing—polygraphists call it a "detection of deception" system that gives employees "a moral vaccination" against dishonesty—has begun to generate substantial opposition as an invasion of privacy and a violation of the constitutional guarantee against self-incrimination.

INDUSTRY STILL CONFIDENT

In recent years 12 states and three cities, acting under pressure from labor unions, have restricted or outlawed lie detection in routine corporate personnel screening. The tests, never acceptable in court, have been repudiated by the Federal Bureau of Investigation. And a measure to prohibit their use nationally is pending in Congress.

Nonetheless, the lie detector industry remains confident that many more profitable years lie ahead—the examinations bring in $50 an hour—and that the demand for its services will continue to grow faster than the opposition.

The Insurance Information Institute estimates, for example, that the annual cost of employe stealing and cheating will double to $6-billion in the next decade, reason enough, partisans of the polygraph say, for their business to double too.

Many polygraph practitioners—there are 4,000 to 5,000 in the industry—believe their technique is a bastion of honesty amid a decaying morality. "There comes a time," says J. Kirk Barefoot, a leading polygraphist and former president of the American Polygraph Association, "when your privacy and mine has to be weighed against a company being stolen blind and put out of business."

Their opponents feel, however, that the polygraphists are only adding to the confusion. They point to technical studies asserting that the lie detector technique is scientifically flawed. And they trace its acceptance to a self-perpetuating circle: belief in the machine's efficacy induces confessions; a high rate of confessions induces belief in the machine's efficacy.

CONFESSIONS AS CONFIRMATION

The success of the polygraph industry in obtaining employe confessions is its chief selling point among pragmatic businessmen who regard the outpourings of guilt as confirmation that the system works. According to John E. Reid, the head of a leading Chicago polygraph company, "We get better results than a priest does."

How the process operates, and what its impact on an ordinary individual can be, is shown by the case of Stanley Brundage, a composite person put together for this profile to protect the privacy of the four real persons from whose real polygraph histories he is drawn. Company names in the episode are fictional.

Picture Mr. Brundage as a 25-year-old vending machine service man who married on his return from Vietnam a year and a half ago and now is the father of a year-old son. His brush with the polygraph came this year when he applied for a job with U-Vend-It, a competitor of Automatix, Inc., for which he had been working as a route man for the last seven months.

The new job would have brought him $10 a week more than the $182 a week he had been earning at Automatix. At U-Vend-It he was asked routinely to sign a job applicant's waiver saying:

"I agree that the U-Vend-It Company may require me to take a pre-employment polygraph (lie detector) examination and to take such examinations periodically, as the company may require. I understand that my refusal or failure to take such a test when requested may be grounds for dismissal."

UNEASY OVER QUESTION

The employment questionnaire asked: "Have you ever been tested on the polygraph before?" And, "If so, give dates, places and reasons for the test." Mr. Brundage wrote, "None."

Another question asked, "Have you ever been convicted by any police department for any reason?" Mr. Brundage now says that this question made him uneasy. He knew that the police do not convict, but he had no police record. He answered, "No."

But less than 24 hours later, after 90 minutes of interrogation while connected by wires and tubes to a polygraph instrument at U-Vend-It's private applicant screening firm, Confidential Personnel Services, Inc., Stanley Brundage had not only been barred from the new job, he had also been dismissed from his old one. And he was unlikely to find another in the vending service trade without moving from his native Midwestern city.

For confronted by the lie detector, Mr. Brundage had confessed to taking cigarettes from his employe's stock for his own use and to "borrowing" small amounts of money for short terms—$62 to get his car out of a repair shop was the largest—from his route man's "bank."

The money was a change-making kitty given him every Monday. He had turned it back in—always perfectly accounted for, with the impromptu "loans" repaid—every Friday.

But to the polygraph examiner, an understanding former policeman, Mr. Brundage had also confessed much more—a homosexual encounter at the age of 13, a teenage shoplifting spree, a near court-martial that was quashed by his commanding officer and appeared nowhere in his "honorable" army record and a martial infidelity of more recent vintage.

QUESTIONS ABOUT SEX

Although a number of polygraph examiners insisted in interviews that no one under a routine test as a job applicant should be asked questions about his sex life, nearly all of them acknowledged that such questions are asked fairly widely. In Mr. Brundage's case, the charges against him in Vietnam had involved an alleged rape, and the subject of sex was opened up. He has always maintained his innocence.

His confession began when the examiner informed him that he had shown "sensitivity" on the polygraph chart—a suppression and recovery of respiration, an increase in blood pressure and pulse, and an increase in galvanic skin response, a measure of a minute electrical current at the fingertips that rises with increased perspiration—to the question: "Have you ever taken money, merchandise or property from any employer".

Advising Mr. Brundage to "think about" this finding while he left the polygraph room to "consult a supervisor," the examiner returned to find Mr. Brundage, as the young man recalls it, "prepared to tell him anything he wanted to know—and maybe more. I felt like a very bad guy".

Mr. Brundage was not hired by U-Vend-It. Moreover, Automatix had recently signed an applicant screening contract with the same polygraph agency, the largest in the city, and the "not recommended" rating noted on Mr. Brundage's permanent file card at Confidential Personnel Services surfaced on its first routine sweep of names on Automatix's payroll.

SCOPE OF COMMERCIAL TESTING

Although the polygraph examiner did not disclose details of Mr. Brundage's test or his confession—either would have been a breach of ethics under the code of the American Polygraph Association—the examiner suggested that Automatix "talk to" Mr. Brundage about his test. Mr. Brundage partially confessed again and was dismissed.

Across the country this year similar episodes are shocking the lives of countless persons in commercial employment.

Some idea of the scope of this nongovernmental, nonpolice polygraph activity can be gained by comparing it with current estimates that the lie detector tests given by

Federal agencies number about one-tenth of those conducted for businesses by private practitioners.

There are no recent Federal figures, but a detailed study seven years ago by the House Government Operations Committee, disclosed that, in 1963, 20 Federal agencies gave 24,000 lie detector tests, not counting the classified and unreported tests required by the Central Intelligence Agency, known to be a heavy polygraph user.

Except at C.I.A. and the National Security Agency, a secret Federal cryptographic and intelligence gathering office, most experts think the use of the lie detector has declined since then in Government here. A 1965 guidance issued by the United States Civil Service Commission is supposed to limit polygraph testing to serious national security cases.

The International Conference of Police Associations has had a standing resolution since 1964 that declares that although a policeman properly relinquishes many rights to avoid questioning when he puts on a badge, this "does not include compulsory subjugation to interrogation under an apparatus of questionable accuracy, the reliability of which has never been demonstrated to the courts."

But private, commercial use of the polygraph has been growing steadily for 15 years.

According to the estimate of Mr. Barefoot, who now heads employe security for Cluet, Peabody & Company, an apparel manufacturing and retailing concern based in New York, some 200,000 lie detector tests are now being given each year to private job applicants or to employes.

Mr. Barefoot, 44 years old, is a former policeman, a graduate of the polygraph course—"Police Science and Administration"—at Washington State University, and a former two-term president and board chairman of the American Polygraph Association. This year he is leading the A.P.A.'s lobbying fight against the polygraph prohibition bill of Senator Sam J. Ervin Jr., Democrat of North Carolina.

COMPULSION TO CONFESS

"Most people have a compulsion to confess," Mr. Barefoot said in an intreview. "They hesitate, of course, as long as they feel there is uncertainty as to their guilt. They may be uncertain about it within themselves. But once you remove that uncertainty—the thing the polygraph does best—they confess. Often they go so far that the examiner has to shut them up. But the confession is the acid test, the real validity of the polygraph from the employer's point of view. He wants honest employees and this way he gets them."

Whether the lie detector way to honest dealing is compatible with a free society is the question raised by Senator Ervin, the chairman of the Senate Judiciary Committee's Subcommittee on Constitutional Rights and one of the leading students here of the Bill of Rights.

Calling the polygraph "a tool to compel a man to speak against his will" and "an instrument of 20th century witchcraft, more appropriate to a police state," Mr. Ervin introduced last June a bill that would virtually ban the lie detector. It is to be the subject of hearings before his subcommittee next year.

The bill would forbid, with criminal penalties, the use of the polygraph in employee screening for hiring, firing or promotion in both Government and in private employment affected by interstate commerce—virtually all of it. Police departments and Federal "security agencies" would be exempt.

A DEEPLY IDEOLOGICAL THING

The pro-polygraph rationale, according to Lee M. Burkey, a Chicago labor lawyer who has successfully reversed through arbitration hearing procedures of union contracts a dozen lie detector dismissals, is "at its root a deeply ideological thing by people who desperately long for law and order."

"I see employer after employer depending on the lie detector," Mr. Burkey said in an interview. "They are only perpetuating the lack of order in America by going through this magic ritual, with all its terrible injustices. The real criminals don't care about the lie detector. It isn't admissible as evidence in court.

"So the truly amoral people breeze through the polygraph, while the introspective, nervous, sensitive person who probably is guilty of some wrong doing—but perhaps not the theft under investigation—shows all the 'wrong' tracings, believes the machine knows all, and makes damaging confessions."

Polygraph defenders like Mr. Barefoot and Mr. Reid, the courtly, white haired director of one of the country's oldest, busiest and most reputable lie detector firms, John E. Reid & Associates of Chicago, have devoted most of their energies to the long dispute over the accuracy and the scientific basics of their instrument and to efforts to police their own craft.

"If you want to write that there are a lot of rotten people in this business," Mr. Reid said during a day-long interview, "there are. What our critics should do is help us get better examining licensing laws, such as we have here in Illinois, let us throw the rascals out and let us do our work. We have the best investigative thing in the world going and they want to put us out of business."

Mr. Reid dismissed the invasion of privacy argument by saying, "No one who comes here has to take the test. They sign a voluntary statement." But he acknowledged that competition for jobs had given polygraphy a significant boost.

He brushed aside the Fifth Amendment objections, too, as "a protection in criminal law."

"A man is not on trial here," Mr. Reid declared. "He is free to go. I wouldn't be here five minutes if we were putting the finger on the innocent, you know. But the people who resist the test, so many of them are guilty. They try to affect others not to take it, and that tells us a lot."

Mr. Reid called subjects who try to manipulate the polygraph by taking drugs, coughing, sneezing, and giving "sensitivity" responses to control questions such as "did you eat breakfast this morning?" the "biggest suckers for us because if they do that they give themselves away completely."

The standard text book on the lie detector, "Truth and Deception," was written by Mr. Reid and Prof. Fred E. Inbau of the Northwestern University Law School. It suggests that "the recorded observations of a secretary or a receptionist as to the subject's general conduct or behavior while in the waiting room will be very helpful to the examiner" in assessing guilt or innocence.

In the following 10 pages of the Reid-Inbau book, the authors warn that such factors as lethargy, nervousness, muscular tension, apprehension over "accusation or interrogation," and the sensitivity of menstruating female subjects to the respiration-measuring tube around their breasts or to the tube's pressure on "falsies" may cause erroneous "deception" responses.

The procedural admonishments include this:

"In instances where the subject insists that he has never stolen anything at any time in his life the examiner should then ask: 'Did you ever try to steal anything?' If he says, 'No', he should then be asked: 'Did you ever think of stealing anything?' If the answer is 'No', this question will serve as a control."

A footnote adds, however, that "a subject who denies ever having stolen anything in his whole life (after being asked about this as above described) is usually established by the test itself as being a liar regarding the main offense under investigation."

ACCURACY IS CHALLENGED

Doubts about the accuracy of the polygraph and the interpretations of its practitioners have received wide attention during the last decade in scientific and academic circles. A number of tests at independent laboratories—some of them commissioned by Federal military and security agencies under Government contract—have challenged the lie detector industry's claim to "99 per cent accuracy."

In 1961, Prof. Jerome H. Sholnikoff of the Yale Law School concluded in The Yale Law Journal that polygraph lie detection depended "on the myth of infallibility" for its psychological impact in inducing confessions.

A year later, Profs. Richard A. Sternbach, Lawrence A. Gustafson and Ronald L. Colier reported that the polygraph's accuracy was "close to 70 per cent." In the Harvard Business Review, they wrote that "the polygraphic method will be effective only as long as people believe it is a real 'lie detector' and confess their guilt when confronted with fancy-looking squiggles on chart paper."

Reporting on an Air Force-funded study of the polygraph in 1962, Prof. Joseph G. Kubis of Fordham University found that "countermeasures can be developed which confuse and deceive the lie detection operator." An Office of Naval Research study, conducted at the Stanford Research Institute in 1964, found the polygraph only 75 per cent accurate.

BASIS OF RELIGIOUS SECT

Many new uses of polygraph equipment are being tested nowadays, often to the embarrassment of commercial lie detector examiners. One of the instrument's standard physiological tests of truthfulness—the galvanic skin response device, which electrically measures increases in perspiration at the fingertips as a sign of lying—has become the basis of a frankly experimental, California-based religious denomination, the Founding Church of Scientology.

In scientology, parishioners are asked to pay $400 for twelve and a half hours of intensive consultation with a minister, while grasping the electrodes of an "E-meter," a simple, battery-powered galvanic skin reflex device. Questions and responses that elicit "sensitivity" or "inner tension" on the meter—scientology rigorously avoids saying that the meter fluctuations indicate "lies"—are pursued in consultation until the "inner tension is released" in confession.

That the American Polygraph Association is sensitive to such experimental uses of its polygraph instrumentation is indicated by its attitude toward Cleve Backster, a New York City polygraphist and former adviser to the C.I.A. who has been conducting for six years serious experiments with the galvanic response of philodendron plants.

Mr. Backster, the lie detector examiner of such leading criminal lawyers as F. Lee Bailey and Henry Rothblatt, has appeared on network television to demonstrate that a plant, hooked to the galvanic skin reflex portion of the polygraph, responds with human-like tracings of anxiety when it is threatened with burning by a match or is spoken to harshly.

But because the publicity given his work is "bad for public relations," as one A.P.A. official put it, Mr. Backster was warned by the association months ago to "disassociate" his plant experiments from lie detection.

Now, because he cooperated in the preparation of an article in the current issue of National Wildlife Magazine describing the "strenuous" galvanic response reaction not only of plants but also of chicken eggs, A.P.A. officials say Mr. Backster is threatened with expulsion from the association.

THE CANNIKIN NUCLEAR TEST

Mr. GRAVEL. Mr. President, more and more evidence is coming to light that the Atomic Energy Commission's Cannikin underground nuclear test did not go exactly as planned.

The Anchorage Daily News recently revealed that the blast shook Amchitka

more severely than AEC scientists had predicted.

This is further evidence that we must be extremely careful in monitoring the effects of Cannikin now and in the future. The unexpected can and does happen.

I ask unanimous consent to have the Anchorage Daily News article reprinted at this point in the RECORD.

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

BLAST SHOOK HARDER THAN AEC PLAN

(By Allan Frank)

The Atomic Energy Commission said Friday that its five-megaton Cannikin bomb shook Amchitka more severely than AEC scientists had predicted.

AEC public information officer Henry G. Vermillion said: "Preliminary indications are that the beach and ocean floor (Bering Sea) in the near vicinity of the Cannikin site has been lifted permanently by several feet.

"Cliff falls along the Bering Sea for a two-mile stretch were greater than had been predicted."

The AEC also said helicopter surveys "have indicated a lessened number of sea otters in the Bering Sea near the Cannikin site as compared with before the test."

Alaska Fish and Game officials have charged that the AEC blast killed "hundreds" of sea otters and the corpses floated out to sea.

But Vermillion said, "Searches of the shores of Amchitka have located 14 dead sea otters . . . and two additional injured otters and two abandoned otter pups were observed by helicopter. It is assumed these died."

AEC officials say that 16 of the 18 otters were sighted on the Pacific Ocean side, but Alaska Fish and Game officials say the "mass kill" was on the Bering Sea side.

"Of the 14 recovered sea otters bodies, 12 underwent autopsies. Deaths of seven appeared to be from overpressure in water. Two died from rockfalls and three apparently were fatally injured by vertical acceleration (upthrust of the ground)," the AEC said.

"It is not believed likely that more explosion-injured sea otters will be found," the AEC said.

Earlier this week, Fish and Game officials said that "300–800 otters" had died and that AEC scientists had left Amchitka too early to make any meaningful evaluation of the kill.

Four seals also were found and 16 dead birds, seven that died from over-pressure and eight from vertical acceleration, were recovered.

No eagles or peregrine falcons were found dead, although two falcon eyries and five or six eagle nests were destroyed.

The AEC also reported "hundreds of dead fish, mostly greenling, were found on the beaches."

In its June environmental impact statement, the AEC said the "most probable expectation (is) that only a few fish will be killed . . . to the unlikely possibility that casualties may include hundreds of fish in the near shore area such as Pacific cod and dusky rockfish; a few salmon in deeper off-shore water; hundreds of fish such as Atka, mackerel, lantern fish, rockfish and smelt in mid-water off-shore area and thousands of rockfish and Pacific cod in off-shore bottom areas."

Freshwater fish, including Dolly Varden char and three-spine stickle-back, died when the blast ruptured the dike of a pond holding drilling mud, according to the AEC.

About 5,000 cubic yards of the toxic mud from the pond, 4.7 miles from ground zero, flowed into the Pacific Ocean through a 1.5 mile long creek.

"It must be assumed that organisms in the affected part of the creek were destroyed," Vermillion said.

The AEC estimates that the fish and otter populations will be back to normal "within a few years."

It also will take several years for the marine life to recover from the sea floor uplifting, which may run the length of the island. In its impact statement, the AEC had predicted that the "extreme case" of uplift would be about three feet.

Around the blast site, the cavity which formed has a maximum depth of about 60 feet, with a radius of about 2,600 feet.

Drillback into the bomb chamber to test for radioactive materials should be "complete by spring, 1972." Preliminary work for the drillback has begun, although the AEC had not indicated whether the hole actually is being drilled.

The AEC also said that its instruments recorded as expected and that preliminary studies indicate the test went well. Vermillion said no detectable radiation has escaped to the surface.

The AEC'S Lawrence Livermore Laboratory south of San Francisco, indicated that the test yielded "the necessary information."

Environmental surveys of the island also will continue, according to the AEC spokesman.

THE AMERICAN FARMER: THE GREAT EMANCIPATOR

Mr. BELLMON. Mr. President, earlier this year I joined with the distinguished chairman of the Senate Agriculture Committee, Senator TALMADGE, in protesting the tendency of many Americans to kick the farmers around. As a representative of a farming State and as a lifelong rural area resident, I have found that farmers seldom receive the kind of appreciation they deserve for the important contributions they make to our society.

Therefore I was pleased to read an article in the November 1971 issue of the Progressive Farmer by Del Deterling, titled "The American Farmer: The Great Emancipator." This article points out graphically the reasons why agriculture should be strengthened instead of constantly being belittled and blamed.

Along the same line, in my home State of Oklahoma, an excellent brochure, "How Oklahoma Agriculture Helps You," has been published by the agricultural experiment station at Oklahoma State University. It was prepared in cooperation with the agri-business committee of the State chamber of commerce, the Extension Service, the State department of agriculture, and the Oklahoma Young Farmers Association.

Mr. President, I ask unanimous consent that these two items be printed in the RECORD.

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

[From the Progressive Farmer, November 1971]

THE AMERICAN FARMER: THE GREAT EMANCIPATOR

(By Del Deterling)

People in this country have become so accustomed to having a varied and generous selection of wholesome food at a relatively low cost that they pretty well take agriculture for granted. In fact, in this age of synthetic fibers and materials, when researchers glibly speak of manufacturing protein from petroleum, algae, and sewage waste, there are many who feel agriculture is diminishing in importance.

Some, in the name of ecology, even say our present systems of food and fiber production are a nuisance and a hazard to the environment that must be curtailed and eliminated.

But eliminating agriculture from the Unite States would have the same impact on the economy as removing one wheel from an automobile. It wouldn't run very far.

Regardless of how taken for granted, ignored, belittled, and even blamed for creating problems of pollution, migration of the masses to the cities, inflation, and diversion of public funds from more lofty goals, the production of food and fiber is still the most essential task of our nation.

People do, after all, need food. All other pursuits take on secondary importance to finding enough food to still a hungry stomach and clothes to repel the heat and cold.

The next time one of your city friends remarks about the declining importance of agriculture, ask him what he thinks would happen to the national economy if you suddenly eliminated an industry that:

Has assets of $300 billion—more than two-thirds the value of all U.S. corporations, half the market value of all stocks listed on the New York Stock Exchange.

Employs 5 million people directly and supports 16 million more in associated businesses—more people than are employed by the steel industry, auto industry, the utilities, and the transportation industries combined.

Spends $55 billion a year for goods and services to produce crops and livestock and for food, clothing, furniture, and other goods; pays $4 billion in real estate and federal and state income taxes.

Consumes 28 billion kilowatt hours of electricity, 5 million tons of steel, 9% of the rubber, and $3.4 billion worth of fuel annually.

And if anyone brings up the subject of Government subsidies, ask him what other country he can think of where customers need use only 16½ cents out of every dollar of income after taxes to pay for essential food, plus about an equal amount to pay for clothing and shelter, leaving two-thirds of each dollar to buy color televisions, boats, a second car, a home on the lake, a better education for his kids, health care for his family, and other things that improve the quality of his life.

You might add that if the American producer hadn't developed the efficiency that enables him to produce food for himself and 50 other people, there would need be many more people engaged in the production of food and fiber, and a lot fewer would be free to build color TV's and boats, keep the golf greens in perfect condition, operate motels and hunting lodges, and provide the other nonessentials to which we have become accustomed.

In contrast, in Russia 55% of the population is engaged in food and fiber production, and 50% of the disposable income of each family unit is required to pay for food. Red China must keep 75% of its manpower tied up with agricultural production. Even in Western Europe and Japan, consumers must shell out one-third or more of their income to buy food.

The question then justifiably could be asked: "Who is subsidizing whom?"

The American farmer, therefore, could rightly be called the "Great Emancipator" for freeing manpower, income, and time from the slavery of grubbing for enough to eat and to wear and for enabling our citizens to enjoy a quality of life never before experienced by any people on this earth.

Such recognition does not come easy nor by itself. The general public is not given to pouring out praise for those things it takes for granted.

Farmers and ranchers must take the initiative in calling attention to the important contributions of agriculture to the health and well-being of the country and the world. Pleas for sympathy will not do the job. Producers must join hands with their agribusiness allies to develop positive programs to get the public to realize that America can be strong and free, that its citizens can enjoy the fruits of abundance, only so long as its food and fiber industry is strong and healthy.

HOW OKLAHOMA AGRICULTURE HELPS YOU

AGRICULTURE'S SECONDARY EFFECTS ON THE ECONOMY

Agriculture not only is Oklahoma's largest industry—it also has an unusually high "multiplier effect" in its secondary benefits throughout the state's economy.

Each $1 in personal income from agricultural processing will produce $4.32 in personal incomes for other people.

This effect can be illustrated by the opening of a new meat packing plant.

First, such a plant will create new jobs. These additional employees will increase the demand for gas stations, groceries, stores, transportation, communication, and so on.

Then these service businesses expand and hire more employees. Such service-type employees also increase the demand for services.

The cycle continues until the effect of the new packing plant is felt throughout the economy.

IF YOU ARE A MERCHANT

Oklahoma farmers and ranchers spend about $34 million a year for fuel and oil for their motor vehicles.

Based on recent figures, these producers spend $33 million a year for fertilizer and lime, $10 million for seed, and $146 million for feed.

Building materials businessmen ring up nearly $32 million in yearly sales to agriculture producers.

Merchandisers of hardware and small hand tools in Oklahoma have $7.6 million in annual sales to farmers and ranchers.

Oklahoma's agricultural producers spend $8.8 million yearly for pesticides, $2 million for binding materials, and $2.3 million for veterinary medicine supplies.

In a year's time, they also pay $694,000 for dairy supplies, $458,000 for containers, $387,000 for greenhouse and nursery materials, and $258,000 for harness and saddlery.

IF YOU WORK FOR A FIRM THAT SERVES AGRICULTURE

Transportation and public utility employees in Oklahoma total about 50,000. Service to the agriculture community makes up a sizable portion of their business.

The food-processing industry is the second largest user of power in the state. It buys nearly a fifth of the kilowatt hours used by Oklahoma industry.

Four hundred agriculture service firms have 2,500 employees.

IF YOU WORK IN FOOD OR FIBER HANDLING OR PROCESSING

Nearly 400 Oklahoma firms are manufacturing food and kindred products. They employ 15,000 persons—the largest single segment of Oklahoma manufacturing.

More than 50 percent of the employees in Oklahoma warehousing and storage are in agriculture-product warehousing.

Food stores in the state employ nearly 20,000 workers.

The 460 Oklahoma grain elevators employ about 3,800 persons full and part time. Ninety livestock markets provide jobs for 2,300 persons.

The growing field of forestry finds about 120 lumber and wood products firms hiring more than 2,000 workers.

Apparel and textiles are manufactured by about 100 firms, which hire 10,000 persons.

IF YOU ARE IN THE AUTO OR EQUIPMENT BUSINESS

Investment in motor vehicles and machinery by Oklahoma farmers and ranchers was estimated at about $745 million at the beginning of 1971.

They spent about $126 million for velicle and equipment in one recent year. This included purchases of tractors costing $21 million, trucks worth $26 million, autos at $17 million, and other machinery and equipment costing $62 million.

That same year, these producers paid an additional $28.5 million for repairs, parts, tires, and batteries for their vehicles and equipment.

IF YOU ARE A GOVERNMENT OFFICIAL

Oklahoma farmers and ranchers pay about $40 million in taxes each year on their operations. This includes $30 million in ad valorem taxes on farm real estate, plus $10 million in personal taxes on livestock, farm machinery, and household goods.

Nearly a third of Oklahoma's working force is employed in agricultural industry. About 250,000 persons make up this work force, roughly half on the land, and half in businesses related to agriculture.

These businesses, in turn, generate a multiplicity of other jobs, mostly in urban areas.

IF YOU ARE IN FINANCE

Agricultural producers in Oklahoma were obligated for real estate mortgages of $637.5 million at the beginning of 1970.

Non-real-estate loans by all institutions to Oklahoma farmers and ranchers in a recent year were estimated at $970 million.

DID YOU KNOW?

There are 90,000 farms and ranches in Oklahoma, with an average size of 412 acres.

The state has 37.1 million acres of farmland.

Those 37.1 million acres recently were valued at an average of $173 an acre. This means that Oklahoma agriculture producers have $6.2 billion invested in their land.

The "average" 412 acres of land and buildings thus would cost about $71,000.

In addition, Oklahoma agriculture producers have $815 million invested in livestock, plus $744 million invested in motor vehicles and machinery.

This brings their total investment to $7.8 billion.

So the "average" Oklahoma agricultural unit has about $86,000 invested in land, livestock, and equipment.

Oklahoma ranks second among the states in number of beef cows. Oklahoma City is the largest feeder-cattle market in the U.S.

Oklahoma is third among the states in wheat production.

Sale of agricultural products in the state in a recent year reached nearly a billion dollars—$939,279,000.

Livestock products accounted for 72% of these sales, and crops the other 28%. Beef is the state's major livestock product, and wheat is the major crop.

Other crops have an important place as "freshest and tastiest." For instance, strawberries, peaches, and pecans are grown in-state and arrive at food markets fresh, tasty, and with all-around high quality.

NATIONAL FARMERS UNION OPPOSES CONFIRMATION OF NOMINATION OF DR. EARL BUTZ

Mr. HUMPHREY. Mr. President, the Senate Committee on Agriculture and Forestry has completed its hearings on President Nixon's nomination of Dr. Earl Butz as Secretary of Agriculture. Many individuals and organizations testified on this nomination and it was evident in the course of these hearings that considerable opposition to the Senate confirming Dr. Butz to this important post has developed throughout the country, especially among the farm people of this Nation. Farmers, and several of the organizations that represent them on the national level, have filed strong opposition to Dr. Butz' appointment. One of these organizations, which has long been noted for its championing the cause and interests of American family-farm agriculture, is the National Farmers Union. The president of that organization, the very able and talented Tony Dechant, made a very compelling and persuasive statement in opposition to Dr. Butz' confirmation. There is no doubt in my mind that Mr. Dechant's testimony accurately and appropriately reflects the views of the 250,000 farm families who are members of this great national organization.

Mr. President, I also wish to state that I am also opposed to Dr. Butz' confirmation. In the course of our hearings on confirming his nomination, Dr. Butz refused to make any commitments either for himself or for the administration regarding what policies and programs he would pursue to strengthen and improve the prices and income of our Nation's family farmers. Therefore, the only basis left for me to judge what he might do if confirmed, is his past record. And, Mr. President, that record, based upon his previous actions, speeches, and statements he made while serving as Assistant Secretary under former Secretary of Agriculture Ezra Taft Benson, shows no encouragement or sympathy for preserving the family-farm system of agriculture.

Mr. Dechant, in his statement before our committee, hit hard at the threat that Dr. Butz' confirmation would pose for the farmers of this country. Therefore, Mr. President, I ask unanimous consent to have Mr. Dechant's testimony, presented before the Committee on Agriculture and Forestry on Dr. Butz' nomination, printed in the RECORD.

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

DECHANT OPPOSES SENATE APPROVAL OF EARL BUTZ AS SECRETARY OF AGRICULTURE

WASHINGTON, D.C., November 17.—The Farmers Union opposed the appointment of Dr. Earl L. Butz as Secretary of Agriculture here today at a hearing of the Senate Agriculture Committee.

The National President of the Farmers Union Tony Dechant told the Committee that Butz' appointment raises serious questions about the future of family farm agriculture in America. He said the National Board of Directors of the Farmers Union voted unanimously to oppose the nomination.

Dechant said, "Dr. Butz' economic views are archaic. He has been in the active service of a number of corporations which seek to dominate the rural economy.

"His appointment as Secretary of Agriculture would suggest:

"1. Farmers can expect a continuation of low farm prices which have been administered by the Nixon Administration.

"2. Farmers can expect little relief from the Nixon Administration's disastrous set-aside land retirement plan which has proven

unworkable as a system of supply management.

"3. Farmers can expect a continuation of President Nixon's policies which favor corporations at the expense of producers.

"4. Farmers can expect the farm program to be a pawn in President Nixon's bid for reelection, with possible attempts to sugarcoat the bitter pill of the set-aside program, and with final phase-out of workable farm programs scheduled to follow the November, 1972 election.

"The steep decline of farm parity began during the era of Secretary of Agriculture Ezra Taft Benson, for whom Dr. Butz served as Assistant Secretary. The departure of millions of families from rural America swelled into the greatest mass migration in history. No Administration has been able to reverse the trend which was set in those years. Dr. Butz favored a phase-out of positive supply management long before the term 'set-aside' was coined by the Nixon Administration. He was an exponent of the massive soil bank land retirement plan during the Benson years.

"Dr. Butz' service to Purdue University while he was on the payroll of several large corporations represented a conflict of interests. Since he is philosophically and politically dedicated to the advocacy of their cause, we believe a similar conflict of interests would continue in the President's Cabinet, even though he resigns from his positions of corporate responsibility."

Dechant stated that:

"Dr. Butz has a bad record, but we recognize that a man can change. Our concern is heightened because of the gravity of the present situation for farmers. We cannot afford to provide time for the new Secretary to develop some new approach. The Nixon Administration took nearly two years to shape and refine the present set-aside fiasco. It was not really new—it was the same old massive land retirement scheme advocated by Dr. Butz more than a decade ago. Mr. Chairman, we do not have two years, nor even two months for more political gimmickry at the expense of the American farmer.

"We know what must be done. We must have effective supply management. We must have improved prices. We must have a massive infusion of low interest rate credit to rescue agriculture from the disaster created by our present farm program.

"I believe it is time that the Congress looks seriously at the proposal to create strategic reserves of our basic farm commodies. We must greatly increase our capacity for farm storage. We must raise commodity loans in order to protect farm income when prices are at their lowest. We must scrap the ill fated set-aside plan. Legislative proposals to accomplish all of these goals are before you.

"Farmers like other businesses must be afforded opportunity to make longer range plans. The optional diversion in the 1972 feed grains program, for example, does not fit farmers needs to make such plans. It's time that this administration recognize the need for effective, permanent supply management programs. Piecemeal and stop-gap measures to cope with emergency situations which could have been avoided are not good enough. Farmers deserve better.

"A little over a year ago I called for the resignation of Secretary of Agriculture Hardin. I did so to dramatize the extent of the alarm with which farmers regarded the unworkable set-aside land retirement scheme and the undue pressures of the Administration on the Congress and Senate to adopt it. The former Chairman of this Committee, Senator Ellender said that never in 34 years had he felt such pressures from the Executive Branch. As you know, he refused—as did Senator Herman Talmadge the present Chairman of this Committee—to sign the House-Senate Conference Report which was adopted under Administration pressure."

Dechant said that he is opposing Dr. Butz' appointment in order to dramatize again our deep concern over the future of American agriculture if present trends continue. He said that "if decisive changes are not made in our farm program before spring planting time he would be back again, calling a press conference and asking for the resignation of another Secretary of Agriculture."

NFO OPPOSES CONFIRMATION OF NOMINATION OF DR. EARL BUTZ AS SECRETARY OF AGRICULTURE

Mr. HUMPHREY. Mr. President, the farmers of this country have long looked to the U.S. Department of Agriculture and the man who is appointed to represent that Department in the councils of government to provide them with leadership and assistance. They especially look upon the Secretary of Agriculture as their champion and chief defender and promoter of their legitimate interests. Of course, in order for any Secretary to perform those functions, he must have the basic confidence of the millions of farm families he is to represent in that capacity. The hearings that were just concluded on President Nixon's nominee, Dr. Earl Butz, for Secretary of Agriculture clearly indicate that Dr. Butz would not enjoy such confidence among the farm families of this Nation. Several major national farm organizations presented testimony before our committee in strong opposition to Dr. Butz' appointment as Secretary.

One of the strongest statements presented against Dr. Butz' confirmation was made by Mr. Oren Lee Staley, the very able and aggressive president of the National Farmers Organization. Mr. Staley stated the basic concerns of American farm producers very succinctly when he said:

Businessmen wouldn't accept appointment of a national labor leader as Secretary of Commerce; laboring men and women wouldn't accept appointment of the president of General Motors as Secretary of Labor; and farmers shouldn't be called on to accept appointment of Earl Butz as Secretary of Agriculture. . . . We oppose Dr. Butz because he has identified completely with agribusiness and preached its gospel while serving in the Department of Agriculture in the 1950's, as an administrator at Purdue University, as a widely-traveled speaker, and as a board member of three agribusiness giants.

Mr. President, it should be noted at this point that only families or individuals who are directly engaged in farming and who depend upon agriculture as their chief livelihood, can become members of the National Farmers Organization. The NFO has been in the forefront of championing collective bargaining for American farmers. They have poineered many new and innovative approaches in that regard and have developed a strong and tightly knit organization of farmers throughout the Nation.

The statement presented by Mr. Staley before our committee on Dr. Butz' nomination and confirmation clearly represents the views and position of his individual members, many of whom I and other Senators have heard from directly.

Mr. President, in addition to his testimony presented before our Committee on Agriculture and Forestry, Mr. Staley also has written a followup letter to me about Dr. Butz' confirmation which I believe every Senator should take time to read. Therefore, I ask unanimous consent that both Mr. Staley's testimony and letter be printed in the RECORD.

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

NATIONAL FARMERS ORGANIZATION,
Corning, Iowa, November 19, 1971.

Hon. HUBERT H. HUMPHREY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HUMPHREY: After observing two days of questioning of Dr. Earl Butz at the Agricultural Committee Hearings, we remain firmly convinced that his confirmation as Secretary of Agriculture would be a disaster for farmers. His answers have not satisfied our concerns over his long and close ties to agri-business, his attitudes toward elimination of farmers and the drive by integrators and others to gain control of the food industry, and the conflict of interest arising from his substantial payments as a director of three of the nation's largest agri-business companies.

He did not satisfactorily answer most of the questions put to him by Senators and other members of Congress of both political parties. These included attempts to determine what he might recommend to raise farm prices, how he would get REA and other department funds released by the White House, how he would tighten poultry inspections, and what he would do to halt the drive by integrators and others to take over farm production.

We feel Senate approval of Dr. Butz would be a vote to abandon an historic commitment to opportunity for people on the land. It would, in effect, ratify a policy to drive people out of agriculture, undermine farm and small business enterprises, and destroy rural towns and cities.

The Senate, in voting on confirmation, will be making a choice on the kind of agriculture and rural America our country wants to encourage. This crucial decision, in our judgment, is the most important single farm vote in this Congress. Farmers everywhere are deeply upset over the selection of Earl Butz and hope the Senate will not cast a vote against them. We, therefore, urge you to vote against the confirmation of Dr. Butz

Respectfully yours,

OREN LEE STALEY, *President.*

TESTIMONY OF OREN LEE STALEY

I appreciate this opportunity to appear in opposition to the nomination of Earl L. Butz as Secretary of Agriculture.

We are shocked and angered at the selection of a man so closely tied to the corporate giants moving into agriculture. It is a disastrous appointment from the producer's standpoint.

Business men wouldn't accept appointment of a national labor leader as Secretary of Commerce; laboring men and women wouldn't accept appointment of the president of General Motors as Secretary of Labor; and farmers shouldn't be called on to accept appointment of Earl Butz as Secretary of Agriculture.

We oppose Dr. Butz because he is a leading spokesman for those who accept the proposition that it is not necessarily bad to continue eliminating hundreds of thousands of farmers each year and permitting integrators and others to gain more control of the food industry.

We oppose Dr. Butz because he accepts bigness in agriculture and the movement of people off the land as inevitable.

We oppose Dr. Butz because he has identified completely with agribusiness and preached its gospel while serving in the Department of Agriculture in the 1950s, as an

administrator at Purdue University, as a widely-traveled speaker, and as a board member for three agribusiness giants.

We are opposed to giving a man with these views and associations a national platform and the tremendous power and influence that goes with being Secretary of Agriculture.

There is no point in mincing words on what this confirmation vote means. It means making a choice on the kind of agriculture and the kind of rural America we want to encourage in the years ahead.

In meeting its constitutional responsibility, the U.S. Senate will choose between an historic commitment to opportunity for people on the land and a goal of mechanical efficiency that drives people out of rural areas, eliminates farm and small business enterprises, and destroys rural communities.

In a 1959 speech quoted in Farmer's Digest, Dr. Butz said "the fact that an individual producer may surrender some of his managerial freedom and may transfer part of his risk-taking to someone else is really a very small price to pay for the advantages that flow out of an integrated system." By this statement and by his testimony before this committee yesterday, Dr. Butz makes clear his concern for the whole chain of food production, handling and marketing. Surely he is an honest man.

Gentlemen, we do not believe the big companies like Tenneco, Dow Chemical, Bank of America, Ralston-Purina, Boeing, and Stokely-Van Camp need the sympathetic assistance of a Secretary of Agriculture in order to survive. Certainly our farm families do need understanding and support.

Some of these big companies, like Tenneco for example, readily concede that these intrusions into farming are part of a bold move to dominate the food industry from field to checkout counter by controlling all phases of production, processing and marketing.

Dr. Butz, by serving on the board of two companies directly involved in these activities, is clearly tied to these attempts to destroy the family farm system and usher in a concentrated, corporate agriculture.

The confirmation situation is further complicated by a conflict of interest in which Dr. Butz took in $26,800 a year as a board member of three agribusiness companies while serving as a dean at Purdue. This committee should determine what services Dr. Butz performed for these companies to make him worth that much money.

It also should find out how well he could serve the farmers of his state as dean of agriculture at the same time he was drawing $12,000 a year as a director of an aggressive integrator like Ralston Purina.

Dr. Butz has disclosed the amount of stock he owns in three agribusiness firms he served as a director—International Minerals and Chemicals, Stokely-Van Camp and Ralston-Purina—and disclosed that this represented about one-third of the value of his investment portfolio. What about the other two-thirds? Is it made up of agribusiness companies or others that would be affected by decisions of the Secretary of Agriculture?

This appointment would put him in charge of programs and regulatory agencies that deal with at least three of his own companies, possibly more, a conflict of interest situation that would not be humanly avoided by merely placing his stocks in a blind trust.

On Tuesday the General Accounting Office issued a report stating that poultry inspection had not eliminated unacceptable conditions in most of 68 plants reviewed. It found that unacceptable condition continued in 17 plants criticized in a previous GAO review. The plants are not named, but will Dr. Butz, the ex-director of the biggest single factor in the nation's broiler industry, vigorously straighten out this situation and end the shortcomings in that industry?

The record will show that in poultry inspection hearings in the 1950s he advocated gradualism. Certainly after 15 years unacceptable conditions should not be tolerated, but will they be?

The committee should determine whether or not the companies in which Dr. Butz has been a director have contributed to improved conditions in the areas in which they operate, or whether they have provided leadership in bringing better conditions. I would like to submit to the committee a copy of a recent Nader report, containing a chapter entitled "Poultry Peonage," with which you might start such research.

Dr. Butz can resign his positions with the agribusiness companies he has served but it is unlikely he will be able to resign his longtime agribusiness biases.

Gentlemen, when you put your stock in trust you still own it. You still have your interest in the companies. How can you expect Dr. Butz to protect free and open bargaining between producers and the companies with which he has been associated?

Taking Ralston Purina's far-flung business interests as an example, possibilities of conflict immediately arise in the supervision of the Commodity and Exchange Authority, the food inspection services, the Packers and Stockyards Administration, and the Agricultural Research Service.

There are a number of other important questions that we feel the committee should explore fully with Dr. Butz during these hearings.

Does Dr. Butz favor expansion of cattle feeding by packing companies, for example, or does he favor legislation that would, in effect, limit feeding to those engaged in agricultural production on a fulltime basis?

Does he favor continuation of tobacco allotments now held by family farmers or would he discontinue this program and turn production over to the big tobacco companies?

Does he favor continued agricultural research centering on high volume, huge concentrations of animals and capital and so-called efficiency or does he favor research that considers social efficiency, people and social costs?

Does he favor integration of the hog industry with eventual destruction of the market and a takeover by big agribusiness firms or does he favor doing what is necessary to keep this industry in the hands of independent producers?

Does he favor international commodity agreements with guaranteed price floors or does he favor an export policy that results in sales abroad at any price?

Does he favor an increase of up to 25% in feed grains price supports or does he favor continuation of the present disastrously low levels being paid to producers?

These are some questions Dr. Butz should be asked before these confirmation hearings come to a close.

There has been a real reaction among farmers to this appointment because few men who have served in the Department of Agriculture have made more inflammatory statements than Dr. Butz. His widely-published statement advising farmers to "adapt or die, resist and perish" is typical.

He is widely known among family farmers for his callous lack of concern about their welfare and the reaction you are seeing and feeling today truly come from the grass roots.

We urged the President to withdraw the appointment the afternoon it was announced. We now respectfully urge you to reject formal confirmation of Dr. Butz, and all that he represents in terms of agriculture and rural America, and to advise the President to name someone who is committed to strengthening rural areas and preserving individual enterprise in agriculture.

NOMINATION OF EARL BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. HUMPHREY. Mr. President, I have received several hundred telegrams and messages registering opposition to the confirmation of Dr. Earl Butz as Secretary of Agriculture. Two of those telegrams are of particular importance in that they come from prominent officials and they also express the concern of rural America. I ask unanimous consent that the telegrams from Gov. J. James Exon of Nebraska and the commissioner of agriculture in the State of Minnesota Mr. Jon Wefald, be printed at this point in the RECORD.

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

MINNEAPOLIS, MINN.,
November 17, 1971.

Senator HUBERT H. HUMPHREY:

The nomination of Doctor Earl L. Butz as Secretary of Agriculture is unacceptable to Minnesota Great Farming Industry that I officially represent. A declining farm population and depressed farm economy could expect only hastened disaster from this chief architecture of the devastating policies applied during the sad administration of Ezra Taft Benson. Minnesota and American agriculture need a Secretary of Agriculture who will champion the cause of the family farmer essential to economic growth, rural development and national population stability. Dr. Earl L. Butz in my opinion is at the opposite pole, a demonstrated champion of cooperate farming. I strongly oppose the nomination of Dr. Butz.

JON WEFALD,
Commissioner of Agriculture,
State of Minnesota.

LINCOLN, NEBR.,
November 17, 1971.

HUBERT H. HUMPHREY,
U.S. Senator,
Old Senate Office Building,
Washington, D.C.:

I respectfully urge the United States Senate refuse consent to nominee Dr. Earl Butz for Secretary of Agriculture. Regardless of other considerations, the key reason for my objection to Dr. Butz has been his past record under former Secretary Benson when the nation's farmers suffered their other worst cost-price ratio in the Nation's history. We are in deep economic distress in the farm belt. I am concerned that this fact is not fully appreciated or at least placed in its proper perspective in Washington. An indication that the U.S. Senate is concerned and intends corrective action would be evidenced by your declining to act favorably on this nomination.

Respectfully,

J. JAMES EXON,
Governor of Nebraska.

IUE FRIGIDAIRE WORKERS FORGO PAY INCREASES

Mr. TAFT. Mr. President, the IUE workers at General Motor's Frigidaire plant in Dayton, Ohio, have agreed to forgo their pay increases during the next 2 years. They did this to help preserve their jobs and make it economic for General Motors to recall thousands of their fellow workers previously laid off. As a result of their action, General Motors expects to be able to cut prices on Frigidaire appliances.

I commend these IUE workers for their responsible action. We all recognize that

the high cost of living makes pay increases highly desirable and even quite necessary. Nevertheless, these workers have understood that by pricing products out of the market they would be destroying their own jobs. Their action is entirely consistent with the President's objectives of increasing productivity and maintaining wage and price stabilization.

These workers understand that productivity is the key to their job security. Only by increasing the productivity of American industry can American workers have a higher standard of living. These Dayton workingmen and women have the good sense to know that if Frigidaire products cannot be sold they will not have jobs.

They also know that the only meaningful job protection is a productive and competitive work force that can make American products better and cheaper than any other work force in the world.

In a word, they have given up short-term gains for more long-term security. If General Motors is able to reduce the price of its appliances, there will be more jobs in the Dayton area and Christmas will not offer such a bleak prospect for these workers and their families.

I ask unanimous consent that an article from the New York Times of November 22, 1971, relating to this matter be printed in the RECORD.

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

GM APPLIANCE WORKERS WAIVE RAISES FOR 2 YEARS

DETROIT, November 21.—Workers at the General Motors Corporation's appliance plants in Dayton, Ohio, agreed today to give up future pay rises for two years.

In return, General Motors is expected to recall some of the thousands of laid-off workers and cut prices on its appliances.

G.M.'s Frigidaire Division, which makes refrigerators, washing machines and other appliances as well as auto parts such as air-conditioners, has 10,000 employees. Another 3,400 have been laid off.

Earlier this year the company in a letter to its employees complained that they earned $1 to $2 an hour more than other appliance workers in this country.

The Frigidaire workers belong to the International Union of Electrical Workers, but their G.M. contract followed the pattern set by the United Automobile Workers, and the U.A.W. workers generally earn much more than workers in other appliance plants.

The agreement to eliminate the scheduled wage increases was negotiated in Detroit over the weekend and approved by members of the I.U.E. local in balloting at the University of Dayton field house.

The workers agreed to waive a 3 per cent increase that was due them tomorrow and a similar raise scheduled for a year from now. They also voted to waive a cost-of-living increase, probably about 14 cents an hour, that would come due in December, and any future cost-of-living raises during the current contract.

In addition, the union members agreed to extend their contract, which was scheduled to expire in the fall of 1973, to May of 1974.

Any workers recalled or newly hired will start at 25 cents an hour less than the going rate, subject to approval of the Wage and Hour Division of the Department of Labor. Frigidaire workers now earn $4.34 an hour.

The union also accepted a proposal that it be split into two locals, one for the appliance business and one for auto air-conditioner manufacturing.

The workers who build the air-conditioners will get their raises. There are about 6,000 involved in this work.

General Motors is expected to recall 200 workers Dec. 6 and another 650 Feb. 1.

It is known that General Motors felt that the expensive contract settlements in the auto industry, applied to its appliance business, were pricing its goods out of the market. The layoffs began last fall when the latest contracts with the U.A.W. and the I.U.E. was signed.

There were rumors that the company was considering getting out of the appliance business General Motors admitted it was considering making its appliances in Japan and importing them into the United States. It also said it might have them manufactured by another American company and sold under a G.M. label, or it might halt the manufacture of appliances at Dayton and produce them elsewhere.

TRAGEDY IN ULSTER—IX—ROOTS OF THE PRESENT CRISIS, PART 2

Mr. KENNEDY. Mr. President, the London Sunday Times of November 21 contains the second article in its current two-part series on the recent origins of the present tragedy in Ulster.

The first part, which was published on November 14 and which I placed in the RECORD last Saturday, November 20, traced the course of events from their peaceful beginning in the civil rights movement of the mid-sixties to August 1970, when the deterioration in relations between the Catholic minority and British troops began.

The second part of the series traces the rise of killing and violence by the IRA provisionals, and the slide into the desperate policy of internment announced in August of 1971.

Throughout these events, as the Sunday Times narrative states:

The thread in the steadily darkening pattern since 1969 has been the complex interaction of military strength and political weakness.

I believe that until Britain learns, as America learned in Vietnam, that there can be no military solution to what is essentially a political crisis, the tragedy of Ulster will grow worse, and the toll of death and brutality will rise.

The essence of Senate Resolution 180, that Senator RIBICOFF and I have submitted, is the call for steps to achieve a prompt and reasonable political solution to the Ulster crisis. If the Sunday Times series demonstrates any single point, it is the futility of the current single-minded search for a military solution.

Mr. President, I believe that the present article contains an extremely valuable analysis of the Ulster tragedy, I ask unanimous consent that it be printed in the RECORD.

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

[From the London Sunday Times, Nov. 21, 1971]

INSIGHT: A PERSPECTIVE ON ULSTER, PART 2: TWO SHOTS THAT KILLED A LAST BID FOR PEACE

Last week's narrative plotted the origins of the strife in Ulster. It told how the movement to win equal civil rghts for the Catholics met with reluctant reforms from the Orange supremacy, and with violent repression which in turn fostered increasing Catholic militancy. It told how, by a compound of political misjudgments and ancient suspicions, the role of the British Army was changed—from August 1969, when it was sent in to protect the burning Catholic ghettoes, to August 1970 when it found itself facing a hostile Catholic population. As we take up the narrative, the scene was set for the rise of the gunmen of the Provisional IRA.)

James Callaghan, Labour's Home Secretary, was already planning direct rule in Ulster—control of the province from London—when Labour lost the election in June 1970. Few of his colleagues knew. The Prime Minister, Harold Wilson, did know, and was "dithering," Callaghan remarked at the time. The Cabinet had not been approached.

Callaghan's mind appears to have been made up. He now tends to say merely that he was "reviewing" the situation, but we have no reason to doubt a detailed private account of his intentions which he gave at the time.

In view of what has happened since, it is worth examining both the reasons for Callaghan's direct rule plan and the difficulties his civil servants then foresaw.

Callaghan was fed up. He thought that the Catholics were stringing the British Government along, making fresh demands as soon as old ones were met. Somewhat in contradiction to this, he had also come to doubt the will of the Stormont Parliament to put into effect even the modest reform programme Labour was pressing—and he had equally small faith in the ability of the Ulster Prime Minister, James Chichester-Clark, to carry it out.

"It's absurd," Callaghan said of Stormont, a few days before the 1970 election. "Here they are, with all the panoply of government—even a Prime Minister—with a population no bigger than four London boroughs. They don't need a Prime Minister, they need a good Mayor of Lewisham." (As a model of government, Lewisham may not habitually spring to mind, but Callaghan's wife used to be a GLC councillor there.) With some misgivings, his civil servants agreed.

Much Whitehall staff work had gone into the mechanism for direct rule. At the Home Office Callaghan had a document drawn up examining three possible ways of taking over Ulster. (Since then the document has grown: five possible forms of direct rule have been explored.)

It is said today that direct rule would entail a full-scale military "invasion" of Ulster, followed by an army of Whitehall officials to replace what is seen as a potentially mutinous bureaucracy. That indeed may have to be the scale of any future operation. The 1970 plan was less dramatic.

About 15,000 troops would have gone over—1,000 more than we have there now. Many of the troops, it was thought, could be withdrawn again in a few days. The Ulster Civil Service would carry on, it was reckoned, and only a few dozen Whitehall men, already selected and briefed, were to go over to improve the quality of administration at key points.

The timing of the direct rule intervention depended on the British General Election (June 18, 1970) and events in Ulster. The "season" of Orange marches (June to August) was just about to begin. For a variety of reasons—including the practical difficulty of enforcing a ban—Callaghan was proposing to let the marches go ahead, though several of his colleagues feared bloodshed. If there had been trouble, it would, he recognised, have at least the virtue of justifying direct rule.

This, of course, was the crucial moment when government and the Ulster problem

unexpectedly fell into the lap of the Tories and of Reginald Maudling, the new Home Secretary. It is possible that Maudling did not even know what Callaghan had in mind—because of the Whitehall custom of not telling Ministers of new Governments what their predecessors had been up to.

AN ABRUPT END TO THE ARMY'S "HONEYMOON"

As we recounted last week, fears of bloodshed as the Orange marches got under way were amply fulfilled. Within ten days of Maudling taking over, he was faced with the first entry of the gunmen of the Provisional IRA into organised action (during the Protestant seige of St. Matthew's Church, East Belfast, on June 27). And he was faced with the abrupt end of the Army's "honeymoon" with the Catholic population (which can be dated fairly precisely to the Army's July 3–5 curfew and house searches in the Falls Road Catholic ghetto). By the end of that one disastrous week of rioting and disorder, the toll was ten dead, 276 injured and £500,000 of damage.

But instead of responding—as Callaghan had planned to do—with the immediate imposition of direct rule, Maudling left Stormont to impose "law and order" of a different kind.

Anyone who supposes that "firm measures" alone are the cure for the ills of Ulster should examine the next episode with care, for it is hard to imagine that there was ever a measure which was firmer, in its way, than the Criminal Justice (Temporary Provisions) Act 1970.

On Monday, June 29, 1970, after the rioting and shooting which followed from the decision of the Army GOC, General Sir Ian Freeland, to "push the Orange parades through the Ardoyne," the Ulster Cabinet met in a state of something like panic. In anticipation, the Minister of Home Affairs, Sir Robert Porter, and the Attorney-General, Basil Kelly, had spent the weekend cobbling up a new piece of legislation, to provide *mandatory* prison sentences for rioters.

The Cabinet had been toying with this for six months. The chief advocates had been Freeland and Brian Faulkner—as Minister of Housing and Local Government and a member of the Security Committee, he has the most influential hardliner in the Cabinet. Freeland had always pressed for two changes in the law: stiffer sentences and a new blanket charge to cover people who might be merely *present* at a riot.

Without dissent, the Cabinet approved the hastily-drafted legislation, applying minimum six-month jail terms for anyone convicted of "riotous behaviour," "disorderly behaviour" or "behaviour likely to cause a breach of the peace."

Inevitably, the Army was going to be the chief instrument for applying this crude legal device—because the Army would be doing the arresting in riots. The theory was that the Army would hand over anyone arrested to the Royal Ulster Constabulary for charging. But the first that Sir Arthur Young, the head of the RUC—sent by Callaghan in 1969 from the City of London police to clean up the Ulster force—heard of it was when one of his officers, Bill Meharg, burst into his office as the Cabinet broke up and said: "You will never guess what they've done now." Young was appalled.

Freeland saw no problems. He complained at the next meeting of the Security Committee that it was "too little too late." But the more thoughtful members of the RUC saw the peril.

It was, as Porter more or less admitted in Stormont, unnecessary on a strictly legal basis. Already, there was an ample battery of charges to deal with trouble on the streets, ranging from breach of the peace through disorderly and riotous behaviour, unlawful wounding, grievous bodily harm, and even arson, with further penalties for weapons. But all these charges, of course, needed the specialist disciplines and skills of a police force to make them work.

These were the skills the Army lacked. Now, as the police saw it, the law was being bent for the Army's benefit—and normal police work would suffer in consequence. Deprived of the traditional breach of the peace charge, for instance, the police would find it hard to cope with non-sectarian, Saturday night drunks.

The legislation was unstoppable: Stormont rushed it through in a record eighteen-hour debate. Only two MPs challenged it line by line: Ian Paisley, who had just won a by-election, and his ally William Beattie. (Paisley, it should be said for the record, is one of the few men at Stormont with any sort of consistent record in opposing military excess and despotic law. Most people affect to see this as nothing more than concern for the necks of his own more extreme supporters, but there is a certain gristly integrity to Paisley's mind which separates him from the *Eatanswill* traditions of Stormont at large.)

One of Paisley's complaints was that the Bill was so ill-drafted as not to make sense in parts, and Basil Kelly's own words, must surely be unique for an attorney-general recommending a piece of legislation to a parliament. "Inevitably," he said, "harsh cases will arise as a result of this Bill, perhaps even wrong convictions on the basis of mistaken identity."

The spirit in which this warning was received was encapsulated in the words of Captain Robert Mitchell, MP for North Armagh. "It brings in," he said with satisfaction, "an element of ruthlessness."

The results of this hasty legislation were soon made apparent. On August 1, in a disturbance in Belfast, a former chairman of the Civil Rights Association, a dentist called Frank Gogarty, was recording the sounds with a microphone and tape. He was stopped by an Army patrol, bundled against a wall and searched, being thrown against the wall twice in the process. When he protested, he was cursed, kicked and thrown into a jeep, at which he said: "Stop kicking me, you British bastards."

Gogarty was charged with disorderly behaviour and, because of his "insulting and abusive" language, with behaviour likely to cause a breach of the peace."

In court, the soldiers agreed with Gogarty's account of his arrest—as a private put it, he had not been "handled with kid gloves." The magistrate dismissed the disorderly behaviour charge, and the language he found nothing worse than "a case of bad manners."

It did, however, constitute behaviour likely to cause a breach of the peace. Gogarty had to get the mandatory six months—the magistrate saying that he would support a petition for his reprieve.

On appeal, however, Gogarty's sentence was actually *increased:* he was now bound over for two years as well as being jailed.

There may be faster methods of alienating moderates, but it is hard to think what they might be.

A Belfast docker, 20-year-old John Benson, was the next celebrated victim. He painted "No Tea Here" on the wall of his street—a reference to the now defunct practice of giving tea to the troops. Beside such ubiquitous Belfast graffiti as "Taig Bastards Out," this contribution was scarcely inflammatory. But the Army complained to the police, and a constable traced Benson by following a trail of red paint drips back to Benson's kitchen.

Deciding that the slogan was "an obvious attempt to intimidate people," the magistrate gave Benson the requisite six months for breach of the peace.

HOW THE STAGE WAS SET FOR THE PROVISIONALS

This sort of case was so clearly disastrous that Attorney-General Kelly approached the police. Could they, he suggested, "bend the law" a little, and use new charges that did not carry mandatory sentences? There was, according to police sources, an argument of some heat when Young said flatly that the only solution was a repeal of the Act. The judiciary—particularly the magistrates—took the same view.

The Cabinet finally succumbed to pressure in December, 1970, and with some sleight of hand repealed mandatory sentences for everything except riotous behaviour.

But by Christmas, 1970, the damage was done. The Ministry of Home Affairs' statistics reveal the fearsome range of the Act. Between July 1 and December 17, 1970—when repeal took effect—269 people were charged with riotous or disorderly behaviour. The police withdrew 129 of these before they came to court; and reduced the charges in 22 cases. (Nine cases dragged on and had still not been heard when the statistics were assembled.)

In the end, therefore, 109 defendants went to court on charges carrying mandatory prison sentences. *Everyone was convicted.* Only four of 17 sentences that went to appeal were reversed.

But the fact that of 269 charged only 109 finally came to court shows that in effect the police were sabotaging the Act by introducing an element of discretion into its working. This sounds worse but the Catholics maintain, with some justice, that this discretion—extended by the partial repeal—has been consistently exercised in Protestant favour.

Inevitably, the Criminal Justice Temporary Provisions Act 1970 came in Catholic eyes to rank, after the Special Powers Act, as the second most repressive piece of legislation at Stormont's command. *And the Army was Stormont's instrument for enforcing it.* Polarisation was complete. The stage was set for the emergence, at last, of the Provisionals

So far this narrative has made little mention of the headline-takers of today, the gunmen and bombers of the Provisional IRA. The reason is simple. Although the origins of the Provisionals (the Provos) go back beyond the entry of the British troops, their rise to power in the Catholic communities was markedly late, and their descent into war with the British Army later still. Not until February 6 this year was the first British soldier killed by a Provisional. Not until *April* did General Farrar-Hockley sit down to write a military assessment forecasting—accurately—that a Provisional bombing campaign "is *now* inevitable" (our italics).

This lag of 18 months between the entry of British troops and the opening of the Provo offensive is now forgotten. The common argument is that *because* the Provisionals are undoubtedly violent men, many of whom have welcomed conflict with the Army, *therefore* they have caused the trouble. In a context less emotional than Ireland, the non sequitur would not be accepted for a second. As we have tried to demonstrate, the thread in the steadily darkening pattern since 1969 has been the complex interaction of military strength and political weakness. The Provisionals have reacted to these events.

Certainly, the Provisionals are gunmen, bombers, murderers. But why—if they are such conspiratorial desperadoes—did they take 18 months to emerge, and how did they finally do so?

The IRA in Belfast is essentially a different animal from the IRA elsewhere in Ireland, for the cold-blooded reason that the Catholic enclaves of the city, particularly around St. Matthews' in east Belfast, are peculiarly exposed to Protestant reprisal. Previous IRA campaigns have thus avoided the city, and the IRA men there have seen themselves very much as community *defenders* against potential Protestant attack—with highflown ideas about fighting for a 32-county Republic way down their list of objectives.

Given the unchanging geography of Belfast, and the tradition-bound nature of

Ulster society in general it is surprising that there should have been men, like the Belfast Falls IRA leader Jimmy Sullivan, who were actually willing to follow the official IRA Dublin leadership into such new-fangled ideas as supporting Bernadette Devlin's election to Westminster (thus tacitly accepting the separate identity of Ulster as part of the United Kingdom).

But as the IRA leadership moved through the 1960s away from their simple historic dedication to a 32-County Republic and into the Civil Rights movement by way of an optimistic brand of socialism, many old-time Belfast IRA men were inevitably bewildered by this change. Those men became, for the most part, the leaders of the Provisionals.

The split over the leadership's Left-wing policies came in 1964. The IRA in Belfast then consisted of a single "battalion," an impressive title for a scrappy gang of rather under 100 activists. The commander, Billy McKee was overthrown—nominally, in a dispute over the carrying of the Republican tricolour flag on one occasion—and a group of diehards promptly marched out with him. Their names now read like a roll-call of top Provisionals: Joe Cahill (ex-Chief of Staff, now in the South); Seamus Twoomey (present Chief of Staff); Billy Kelly (recent leader of the Provisionals' Third Belfast Battalion, now in the South) and, later, Sean MacNally (now Provisional Quartermaster-General).

To replace McKee, the "official" IRA hierarchy elected Billy McMillen, with Jim Sullivan of the Lower Falls as his number two. But even several of those who stayed "official" were unhappy, notably Francis Card (later to be the Provo's propaganda chief, now jailed) and Leo Martin (still at large).

The collapse of the "official" IRA came over the issue of arms. To raise money to sustain the IRA newspaper, the United Irishman, the Dublin leadership decided in 1968 to sell their now, hopefully, unwanted—weapons to the Free Wales Army (who promptly lost them to the Scotland Yard Special Branch).

This, naturally enough deepened the resentment in Belfast. As violence grew in the summer of 1969, some of the old hands took "precautions." Francis Card secreted three pistols under the bath in his house near the Clonard Monastery, Leo Martin paid £8 for a Smith & Wesson revolver. But rearmament remained on this minuscule scale.

It is a part of Provo mythology that the official Dublin leadership of the IRA actually planned that the Belfast Catholics should be left unarmed before Protestant attack in 1969. The weird theory, supposedly, was that there would be a terrible massacre which would eliminate the troublesome Belfast dissidents and finally bring down Stormont as a byproduct. When the old IRA fears came true, and the Protestants did attack Catholic areas of Belfast in August 1969, the inability of the "official" hierarchy to do their traditional job of community defence finally discredited them.

In September, 1969 after a meeting at which guns were drawn, the IRA leadership in Belfast—under pressure from the old-timers like McKee who had re-joined—declared their independence from Dublin. The actual split in Belfast between the "Provisionals" (the old-timers) and the "officials" (who still looked to Dublin) came in December.

In August, 1969, the "joint" IRA strength in Belfast was just under 150; by December it had swelled to 600. But of these only 80 or so were hard-core, and when the two factions split, although the Provos took about 400 men with them, they took only 30 or so of the trained activists.

This did not worry the Provos. They reckoned that an effective urban guerrilla campaign required a nucleus of only 50 well-trained men.

There were still pockets of Republicanism which preferred to go their own way. The Catholics of East Belfast, clustered around the Short Strand, formed their own "community deference association" and have remained to this day something of a no-man's-land for either IRA faction.

Only the Lower Falls, under Jim Sullivan's sway, remained an Official stronghold plus the Turf Lodge district of west Belfast, where several hundred old Falls' residents had been rehoused (Sullivan had retained his reputation in August 1969 by producing three Thompson sub-machine guns for the defence of the Lower Falls.)

Much of the quiescence of the first six months of 1970 can be accounted for by these regroupings in Belfast. The Provisionals and some of the "neighbourhood defence militia" went training that spring in camps over the border in Donegal, Cork and Wicklow. There was much reading of guerrilla manuals, notably the writings of General Grivas. The Provisionals were simply not strong enough to take anyone on—even if they had wanted to.

Did they want to? The Army's relations with the Catholics were good—though to a large degree that reflected merely the fact that the Army's relations with the Protestants were at that time bad. There is some evidence that the Provisionals were unhappy with this fraternisation, and missed few chances to spread a little disaffection.

Yet, remarkably, until the summer of 1970 the only traceable incidents for which the Provisionals were definitely responsible were one shooting and one bombing. The shooting was on September 28, 1969, when a Protestant crowd made to storm the isolated Unity Walk Catholic Flats near the city centre and a Provisional inside the block tried to frighten them away with a burst of Thompson fire. And on January 27, 1970, in an obscure act of retaliation for an alleged act of Army misbehaviour, the Provisionals blew a hole in the wall of the old police barracks by Unity Flats—the soldiers inside narrowly escaping injury.

Even in the first clash between the British Army and the Catholics—the riots, sparked by an Orange parade, on the Ballymurphy estate in west Belfast over the first three nights of April, 1970—there is evidence that the Provisional leadership thought the Ballymurphy riots should be stopped, and formed a vigilante squad to haul off troublemakers.

There is no evidence that Ballymurphy changed the Provisionals' attitudes. What did, however, decisively affect first the Provisionals' own perceptions and then the Catholic population's readiness to endorse these, were the events of June-July, 1970, which we described in the first article: the shoot-out with the Protestants at St. Matthew's Church and the Army's curfew of the Falls.

These events shook the Provisionals. The St Matthew's battle pointed towards a doctrine of militant self-help. The Falls curfew seemed to indicate that, under the new Conservative Government, the Army was now to take a much tougher anti-Catholic line. The Criminal Justice (Temporary Provisions) Act seemed finally, in the Catholic eyes to cement the military into the structure of Unionist supremacy.

Recruitment to the Provos was dizzily fast in the last half of 1970. There was sporadic Catholic rioting, but it was neither of the Provisionals making nor in their control. By the end of 1970 the Provisionals were in the odd situation of being, at least, the acknowledged leaders of an increasingly uncontrollable community. And Chichester-Clark's reform programme was still in the pending tray.

Chichester-Clark was among the optimists of Ulster. When the troops moved into Derry and Belfast in the 1969 riots, he thought they would be back in barracks within 12 months. When those 12 months in fact ended with the Orange parades and the Falls curfew, he thought the first a success and the second justified. When the winter of 1970 seemed quiet, Chichester-Clark and his Cabinet colleagues began to murmur that the trouble was over. The Army was disconcerted. "We used to tell them: 'For God's sake your troubles are ahead of you,'" one senior army officer recalled. "But they wouldn't listen."

The root of Chichester-Clark's optimism did him credit, however. In 1969 he, like most Ulstermen had blamed the trouble on the IRA. But while his Cabinet colleagues had remained of that fundamentalist persuasion, Chichester-Clark had in 1970 come to believe the IRA at that time was secondary. "The trouble really is communal discontent," he once said privately. And this he thought his reform programme would assuage.

WHY THE REFORM MEASURES COLLECTED DUST

But Chichester-Clark was isolated. He was worried about upsetting his own backbenchers. He had no pressure from the new Conservative Ministers in London to make his party come to heel. So, despite his perception of the ills of Ulster, Chichester-Clark allowed the proposals to stay in the pending tray (when the new Prime Minister, Brian Faulkner, announced his Green Paper of reforms this autumn, it was the year-old draft prepared for Chichester-Clark with Chichester-Clark's own handwritten notes in the margin).

Through the winter of 1970, the only consistent pressure on Chichester-Clark for reform was from the British civil servant Ronald Burroughs. He had been sent to Ulster by Harold Wilson and stayed as the British Government's representative when the Tories came to power.

Yet even his inability to put through reform did not dent Chichester-Clark's optimism. When he told Burroughs that the proposals were "not practical," Chichester-Clark meant merely that he could not yet force them upon his mutinous party. Most particularly (and now most ironically) Chichester-Clark meant that he could not force them through his Cabinet against the objections of Faulkner.

But by the end of 1970 time had run out. In a complex series of interactions, the volatile brew of political timidity, random communal riots and nascent guerrilla terror, was about to explode.

The riots on the Ballymurphy estate, West Belfast, in January, 1971, began a double political process: Chichester-Clark's disenchantment with reform (an odd disillusion since he had not tried it) and his increasing attachment to strong measures. But the riots were remarkable for something else: a secret attempt by the Army to enlist the Provisionals of the IRA in keeping the peace.

The Second Royal Anglian Regiment had assumed the task of controlling Ballymurphy and a wedge of West Belfast some months before. Although the Anglians are a notably unflappable regiment with one of the best reputations for coolness in Ulster riots, the help of the community leaders was clearly needed to keep the peace.

Quietly the Anglians' colonel, Gerrard Wright, resurrected the practice of his predecessor and began to talk to the local Provisionals. The men he met were a formidable trio: Francis Card, number three on the Provisional Brigade Staff, who lived by Kashmir Road in the Clonard; Liam Hannaway, also on the Brigade Staff, and his brother Kevin, commander of the Provisionals' "Second Battalion" covering both Clonard and Ballymurphy, who lived in Cawnpore Street, by the Clonard monastery.

The contacts continued on a regular basis through the months of sporadic rioting in Belfast at the end of 1970. Both sides seem to have seen them as an inexpensive intelli-

gence operation. Neither side can have guessed what they would become.

When the Ballymurphy riots began, the circumstances were such as to suggest to the Army that the contacts with the IRA Provisionals might be helpful.

It was clear to the Army that the petrol bombing was random hooliganism: "At no time," says the Army headquarters log for the time, "was there aggressive action by organised groups. There is eyewitness evidence that the rioting might have been bloodier on January 12/13, 1971 but for the fact that the Provisional leadership were working to stop it. According to two sources, the Provisionals actually placed some youths under armed arrest.

AN ARMY SEARCH ENDS A TACIT TRUCE WITH IRA

On January 13, so far as the participants can now remember, the Army got in touch with the Provisional leadership to appeal for help in cooling Ballymurphy.

The sequence of events—agreed by IRA and Army sources—is that Francis Card was invited to an Army post in North Howard Street, to be warned of a rumored threat against his life. The subject of Ballymurphy was raised—and at a meeting later in his house in Cawnpore Street, Liam Hannaway, told the Army: "If you get out of Ballymurphy we can control it without your assistance."

It was a long meeting, apparently a couple of hours. Leo Martin, who joined the talks with the Army, made the toughest demands. But both sides explored possible solutions. The Provisionals rejected a suggestion that the RUC should go back into Ballymurphy in place of the troops. On the other hand, the soldiers did not apparently reject the idea that they should allow the IRA to keep order.

The meeting was broken up by renewed rioting in Ballymurphy. And the next morning, January 4—acting on the orders of higher authority"—700 troops began a house-to-house search of Ballymurphy.

Before the rioting finished that night, 42 petrol bombs and three bottles of sulphuric acid had been thrown, and guns had at last been used, wounding one soldier.

Even for the Provisionals, the thought of taming Ballymurphy was now daunting. One of the leaders told us much later: "We were in control of Ballymurphy in a normal situation. But it is a big area. There are thousands of teenagers there who detest the British uniform. Every time they saw one in these riots they went berserk. And we couldn't start beating people around because we disliked the British, could we? The people we had in Ballymurphy were swamped—say 20 rioters to one nonrioter. . ."

There is a sliver of evidence that Chichester-Clark learned on January 15 of the Army's discussions. He made the odd public announcement that day to the effect that the Army would not be leaving Ballymurphy "in response to physical force or to any form of political pressure."

But though the Ballymurphy riots were successfully quelled by the evening of January 16, with whatever sort of collaboration between Provisionals and Army, there was dwindling confidence by both sides in the viability of their discussions.

We cannot say how frequently the two sides met during the latter part of January, but contact was apparently "regular" between Colonel Wright, Francis Card and Liam Hannaway. One officer explained: "We felt that some sort of communication was better than no communication at all. Every meeting was calculated to produce some glimmer of contact, spreading one's net. They thought they were conning us. We thought we were conning them. Neither of us was successful."

The Provisionals wanted the political success of an agreement with the Army in Ballymurphy. The Army was equally keen on a tacit truce with the Provisionals, if only to help Chichester-Clark's survival by keeping the streets quiet.

But the Provisionals could not keep their mouths shut. On January 27, William Craig, the hard-line former Minister for Home Affairs, told a sensational story in Stormont. Two RUC constables, he said, had been patrolling in the Clonard area when a pair of Professionals had advised them to leave the area if they valued their lives. The police approached an Army patrol, *who confirmed the advice.*

The first point to be made is that the anecdote is true. The second is that while the Clonard and Ballymurphy areas had for months been virtually "no go" areas—where the police went only by vehicle and by day—Craig's story of expulsion was, to the Unionists, new and sensational.

Was the Army acquiescing in Provisional authority in parts of Belfast? The Provisionals thought the Army was.

According to Liam Hannaway, the Provisionals were promised (at a meeting around February 1, Hannaway thinks) that there would be no military or police activity in the Clonard while talks between the Army and the Provisionals were in progress.

This view is supported independently by another IRA man. The Army's recollection of the date of the meeting is uncertain: either around January 20 or "early February". But senior officers passionately deny that any deal resulted from the meeting.

What happened next certainly ended any faint chance of an agreement.

On Wednesday, February 3, the Second Royal Anglians, on the orders of General Farrar-Hockley, the second in command in Ulster, cordoned and searched the Clonard and Ardoyne areas. Army sources say that the RUC Special Branch had learned of Provisional documents—either stolen or compiled by the IRA—giving personal details about Special Branch men. (Whether these were home addresses and habits, or the sort of material that could lead to blackmail, we do not know.) The Army was asked to retrieve the documents, which, the sources claim, they did—apparently in Hannaway's house.

In the Clonard, the Army stayed around after the search, and Catholic rioting broke out. Then when Protestant workers from the nearby Mackie's engineering works came out to lunch, and began to jeer the Catholic crowds and even pelt them with "Belfast confetti"—as the local mixture of ballbearings and the tiny discs produced by shipyard riveting is called—the Army and police ostentatiously turned their *backs* to the Protestant confetti-throwers and concentrated on the Catholics.

Around four in the afternoon, after a few hours of calm, it was evidently decided to clear the streets. The soldiers did this before the Mackie's workers were due to come out again by roaring up and down in their jeeps. At least two people were knocked down.

The operation was a deliberate show of Army toughness. The idea, we have been told, was to "cut the Provisionals down to size" by demonstrating that the Army could invade their home territory whenever it wished. If the idea was to humiliate the Provisionals, however, its effect was on the contrary to solidify the Clonard behind them.

The rioting over the two nights which followed was the worst the Army had faced in Belfast. In one encounter on the New Lodge Road, five soldiers were wounded in a burst of machine-gun fire. Another had his thigh broken by a gelignite bomb. In the two days eight soldiers were wounded, one seriously.

As these riots moved into their second day Farrar-Hockley appeared on Ulster Television. In answer to the point that the searches had caused serious riots, he made a momentous statement: "We searched this area because we have good evidence that it harbours members of the IRA Provisionals," he said.

He proceeded to name Francis Card, Billy McKee, Leo Martin and Liam and Kevin Hannaway as Provisionals of "some braggadocio." He neglected to say that these were the same Provisionals with whom the Army had been in talks. Martin, who happened to be watching television when Farrar-Hockley spoke, had an interesting reaction: "That's a breach of confidence," he said.

It was also exceedingly embarrassing for the Provisionals, *because their own followers did not know about the discussions and might have been outraged to learn of them.*

There were no more talks. The Provisional leadership now felt it had to prove its readiness to take on the British Army.

On the following night, February 6, Gunner Robert Curtis, aged 20, of 94 Locating Regiment, Royal Artillery was shot dead in the New Lodge Road. He was the first of 36 British soldiers killed at the time of writing. Four of his companions were wounded, one critically.

That same night, three other soldiers were injured. The Army killed one Republican sympathiser, 28-year-old Bernard Watt, and 19-year-old James Saunders, a staff officer in F Company of the Provisionals' Third Battalion.

Chichester-Clark announced on television: "Northern Ireland is at war with the Irish Republican Army Provisionals."

Contemplating Chichester-Clark as he said that, the British representative Burroughs sent back a report to the Home Office—advising them not to give in to the Prime Minister's demands for more force. Whatever they did, he said, "I think Chichester-Clark has shot his bolt."

Chichester-Clark had been talking since January of resigning, but to everyone's surprise he put a good final fight. The mounting IRA campaign of violence impelled him to demand still more troops from Britain and tougher action in the Catholic areas which Maudling and Carrington in London turned down on the advice of the Army.

AN "ASTONISHING" DOCUMENT FROM THE CABINET

Talking at Lisburn shortly before midnight, on Saturday, February 20, 1971, Ronald Burroughs and General Farrar-Hockley received a document from the Stormont Cabinet. It subsequently became famous in high Government circles: one of the dozen or so people who saw it called it "the most astonishing document I have ever seen from a Government department in my life."

It was an ill-typed list, covering two pages, of the Unionists' Military "demands." These included—besides such obvious measures as more troops, and more arrests—block searches, total curfews of Catholic areas, sterner action on the border, and a plan to bring the Ulster Defence Regiment, the reformed B-Specials, into parallel operation with the Army.

But the most startling demand was apparently written in at the foot of the first page as an afterthought. So far as we can gather, the Unionists wanted searches of Catholic areas as straight reprisal raids.

"It was militarily useless, morally wrong, and in the long term politically self-defeating," was one judgment. Burroughs and Farrar-Hockley submitted a joint memorandum to London saying that the document was unacceptable in every major respect. It was rejected. (Many of the measures, however, have since crept into use under Faulkner.)

The *coup de grace* was suplied by the Provisionals. On the evening of March 10, three young Scottish soldiers were shot in the back of the head outside a pub on a

country road near Belfast, Scotland Yard detectives later concluded that their murderers were three Provisionals, led, ironically, by an ex-British paratrooper. The reaction to the killings was so intense in Ulster that for about 48 hours, Chichester-Clark feared that the Protestant "backlash" had been precipitated at last.

On March 16, he flew to London to see Heath, Carrington and Maudling. He returned to report to Stormont on March 18 that Westminster had agreed to send another 1,300 troops of the 3,000 he had asked for. "It wasn't anything like enough and everyone knew it," he remarked after the debate.

The next morning, Friday, March 19, he told Downing Street that he intended to resign. At nine that evening, he was sitting in his flat in Stormont Castle eating chicken and chips with three senior civil servants. The telephone rang. It was Heath.

"I didn't realize it was as critical as that," he said. "Why on earth didn't you tell me?" (As Chichester-Clark remarked later: "Short of leaping on the Cabinet table at Number Ten, I thought I could hardly have made it clearer.") Heath tried to dissuade him. "All you're doing, Jimmy," he shouted down the line in tones of unmistakable anguish, "is passing the bloody buck."

The next man in as Prime Minister, chosen by a handsome margin over William Craig, on March 23, was Brian Faulkner.

There is a story about Brian Faulkner which is famous in Unionist circles, and is held to illustrate his most important political gift: agility. It concerns a visit which he paid to the South when Minister of Commerce under O'Neill.

Ulster politicians who happened to hear the Dublin radio that day were startled to hear that Faulkner had visited the Dublin Horse Show—and had been seen in the Presidential box with the arch-Republican, Eamon de Valera himself. They noted that this remarkable event had occurred too late to be reported in the Belfast Telegraph (an evening paper). But still they wondered how Faulkner, a man who had risen on the power of the Orange Right, could hope to get away with it.

They understood next day, when the Belfast News Letter, the morning paper, carried a report of a vibrant denunciation of the Roman Catholic Church—made by Brian Faulkner in one of the Ulster border counties. Having made his gesture towards the South, Faulkner had jumped into his car and driven rapidly north to redress the balance.

Terence O'Neill, when he was Premier of Northern Ireland, used to say that the political style of his most brilliant Minister was summed up in elaborate trade-offs of this kind. And so it was natural that Faulkner, on becoming Prime Minister, should attempt to save the Province with a balancing act. He tried to bring the Catholic-based opposition into the process of government, without alienating his power-base in the Unionist Right.

The collapse of this balancing act led directly to the policy of internment. But Faulkner failed not because he had lost his old instinct for equilibrium: the proximate causes of failure were firstly certain rifle-shots fired by the British Army, and secondly the interplay of personality within the Social Democratic and Labour Party.

Among the Unionists and their rivals in the micro-society of Ulster, individual personality can still sway history. For instance, many people think stability would have been preserved had Faulkner—"a real professional"—become the Unionist leader immediately on the fall of O'Neill in 1969.

He did not do so simply because O'Neill chose to cast his own vote for James Chichester-Clark, the very man whose defection had just brought O'Neill down. "I did it," O'Neill once recalled, "because Jimmy had only been trying to bring me down for six weeks. Brian had been trying for six years. Childish, isn't it?"

The Social Democratic and Labour Party is no less prone to feuding: the bond between its members is less ideology than that all their constituencies have Catholic majorities. The SDLP's leader, Gerry Fitt, is a rumbustious ex-sailor with the back-slapping manner of a minor US Senator. The style does not sort particularly well with that of John Hume, an intellectual meritocrat from Derry. And Fitt has had some mighty personal disputes with Paddy Devlin, an enormous whiskered man who represents the Falls Road area. (On one momentous occasion, they traded punches in Stormont Castle.)

FAULKNER'S "BEST HOUR"—THEN TWO MEN DIE

But these are men of some ability and vitality, frustrated by the prospect of permanent opposition amid the slapstick repartee of Stormont. (Sample: Mr. Currie—"When was the Council of Trent?" Mr. Devlin—"I do not know. It is some bar down around Sandy Row." On June 22 this year in his speech on the Queen's Message, Faulkner made a considerable gesture towards relieving that frustration.

He proposed to add three new and powerful committees to the existing Public Accounts Committee, which would consider Government policies on social services, industrial development and environmental matters. And, much more radically, he proposed that the Opposition should provide salaried chairmen for two of them.

It was an imaginative, even brave, move. Faulkner had taken over against a background of steadily escalating violence. From the end of March the Provisional bombing campaign had really cut loose—37 major explosions in April, 47 in May and 50 in June when Faulkner made his offer.

The SDLP members reacted euphorically. Faulkner's proposals, said Paddy Devlin, "showed plenty of imagination. It was his best hour since I came into the House. . . . The Prime Minister has given Hon Members and indirectly those outside an opportunity to share in decision-making."

John Hume said that "it should be made clear to all people today who say that no change has taken place, that this is simply not true. There have been changes in this community. . . ." Another member spoke of "adulation" coming from both sides of the House: against the background of normal Catholic attitudes to Unionists, "adulation" was fair.

Six days later, Faulkner "balanced." With five members of his Government, including Harry West of the ultra-Right, he made a pilgrimage to Brownlow House, Lurgan, a true shrine of Orange ideals. (Though, to keep the colours straight, Brownlow House is the home, not of the Orange Order itself, but of the Royal Black Institution—the Blackmen being the crême de la crême of Orangemen.)

Faulkner's symbolic gesture to his Right wing might, and ought, to have been tolerable to the Catholics against the substance of his political offer in the face of mounting Unionist anger about the bombing campaign. But nine days later in the Bogside of Londonderry—John Hume's seat—the Faulkner initiative was doomed by a series of accidents.

Relations in the Bogside, Derry, between the soldiers and the Catholic population deteriorated in the first half of 1971 almost as rapidly as in Catholic Belfast. By the night of July 7, rioting had been going on unbroken for four days, and the Royal Anglians had been fired on sixty times by their count. It says a good deal for the fire discipline of his regiment—the Anglians have a reputation for unusual coolness and restraint—that only three shots were fired in reply.

The night of Wednesday, July 7, was noted as "busy" in the Army log. Rubber bullets were fired on several occasions, and shortly after midnight a patrol began to march down William Street, a main thoroughfare where heavy stoning and petrol bombing had been going on.

A man was seen "carrying a rifle" in Fahan Street. According to the Anglians, he was ordered to stand still, but moved to a new position and took aim.

A marksman fired one round from his self-loading rifle, at short range. The man fell, and was immediately borne away by the crowd. When the patrol reached the spot, there were huge pools of blood but no sign of any rifle.

The shot man was Seamus Cusack, an unemployed welder, aged 28. He was hit in the femoral artery, causing heavy bleeding. He was put in a car and driven across the border to Letterkenny Hospital, where he died from loss of blood. Immediate treatment, or even the application of a tourniquet in the car, might have saved his life.

As the Army see it, Cusack's fatal removal across the border is proof that he was an IRA gunman, who could not face treatment in Ulster. But Bogside people injured in riots regularly cross the border for treatment, because they fear that Ulster hospitals might give their name to the security officers.

It was, in other words, a kind of routine to take Cusack to Letterkenny. It appears that sheer inexperience led his rescuers to think that he was not badly hurt.

Cusack was not known to belong to any Republican organization; local opinion is that he was more interested in boxing than politics. Patrick Duffy, a well-known moderate whose peace-keeping efforts have been praised by the Army, says: "I would swear on oath that Cusack was stooping to pick up a helmet knocked off a soldier." Other witnesses think that Cusack was trying to rescue Duffy's little son from the line of fire.

Extreme Protestant opinion holds that a few shootings will bring back law and order. But in Derry that afternoon Cusack's death caused further, bitter rioting.

Just after 3 p.m. an army vehicle was rammed by a hijacked lorry. An Anglian patrol in a Saracen amoured car was called to help, and the Army log records that there were three loud explosions from nail bombs. Petrol bombs were also thrown.

At 3.13, an Anglian marksman again fired one round from an SLR. His target, according to the log, was a man who "fired at him." Desmond Beattie, unemployed, aged 19, died almost instantly.

Father Tony Gillespie, who was standing in a group near Beattie, said at the inquest: "I saw the lad drop to his knees with blood pouring out of him. I could see the hole in his chest." But he said he could not see any trace of a bomb or other weapon.

Henry Curran said that a youth, dressed differently from Beattie, ran past him with "a cylindrical object wrapped in cloth." He threw it at the Saracens, and it exploded. Beattie was shot immediately afterwards.

Forensic scientists found no traces of explosives on Beattie's body, and no sign that he had fired a gun. The soldier who shot him, described only as Mr. A, gave evidence wearing dark glasses, and with his collar turned up to avoid identification.

NO INQUIRY, SO THE OPPOSITION QUITS STORMONT

Mr. A said he saw Beattie with a round dark object in one hand, and what appeared to be a flame in the other. This was surprising, as the first report had spoken of the dead man firing a gun.

An open verdict was returned on Desmond Beattie. By that time, his death had already become a kind of cause celebre.

John Hume tried to call a meeting of the Social Democratic and Labour Party MPs on the weekend after the shootings. He collected Ivan Cooper, from neighbouring mid-Derry, plus Austin Currie, Paddy O'Hanlon and Paddy Devlin. But Gerry Fitt was somewhere in Antrim, out of telephone range. When, finally, a message reached the SDLP leader, his response was that he was not going to Derry for any meeting called by John Hume.

Hume, then, dominated the meeting. He was emotionally concerned about his two dead constituents, and he was politically concerned about being outflanked to the Left. On the same weekend Rory O'Brady, political chief of the Provisional IRA, came over the border to be rapturously greeted by 2,000 Bogsiders. He gave them, in sharp contrast to Hume's careful reformism, the straight "sweep them into the sea" line. "Please God," he cried, "we'll fix it this time!"

John Hume needed urgently to show that he was not the creature of Stormont—a task not eased by the eagerness with which he and his colleagues had embraced Faulkner's committees. So he drafted, and the little meeting approved, a long and powerful statement. It gave the British Government until the following Thursday to set up an independent, public inquiry into the deaths of Beattie and Cusack. Failing that, the SDLP would leave Stormont and set up an "alternative Parliament."

No doubt everyone present knew that Fitt would not approve. But Paddy Devlin, presumably one man who might have cooled the tempers, was still fuming over past disputes with Fitt. So Fitt first learned of his party's new policy when he saw the Sunday night television news. At once, he booked a flight to London for a private chat with Reginald Maudling.

Maudling, obviously, could not yield to the ultimatum. But if he could do something—such as bring forward the inquest, and perhaps increase its status by some means—a way might be found for the SDLP to stay inside the system. Maudling, it seems, was willing to help, and for a while the deal seemed likely to work.

But then, back in Ulster, Austin Currie, another SDLP member, was asked by a radio reporter whether any proposal, such as a special inquest, might settle the Beattie-Cusack affair. No, he said, it would not: there must be a new inquiry. On Tuesday Lord Balniel announced in Westminster that there would be no such inquiry: on Thursday Fitt, fuming, had to lead his men out of Stormont.

It was a symbolic walk-out, because Stormont was not sitting at the time. But it was enough—more than enough—to make the Unionists say that the hand of friendship had been bitten.

It is, of course, possible to say that Faulkner's gesture would have succeeded but for the deaths of Beattie and Cusack. But by mid-1971, such deaths were becoming so frequent in Ulster as to constitute the ordinary risks of politics.

From Faulkner's election in March to the introduction of internment on August 9 there was an average of two bomb explosions a day. In one hectic 12 hours in July, no fewer than 20 explosions wrecked pubs, shops and banks, injuring a dozen civilians. All told more than 100 civilians were wounded in bombings in this period.

The Army, too, felt the impact of the surge of IRA Provisional activity. Four more soldiers died and 29 were injured between April and August; in return the Army killed four civilians, one, William Reid, being described as a known Provisional.

The bombings and the collapse of his political initiative gave Brian Faulkner a persuasive case for internment, and it was his personal achievement that it was finally granted. But internment was not, as it might appear, Faulkner's response to the events of midsummer. When he took over as Prime Minister on March 23 the issue was not *whether* internment was to come but *when* and on what scale?

Throughout 1970 Faulkner was a persistent advocate of internment inside Chichester-Clark's Security Committee—"week after week, it became quite a ritual," one Minister recalled.

Faulkner had been Minister of Home Affairs from 1959 in the IRA campaign of 1956–1962. Ulster's Catholics had given that campaign no support but one of Faulkner's more abiding convictions was that internment was a crucial factor in its defeat.

Chichester-Clark, who was against the idea, learned to stave off Faulkner's demands by simply asking the Army and the police for their opinion each time. This never varied: given the likely degree of success, internment would not be worthwhile. The Army and the police did not know who to arrest.

INTERNMENT: HOW FAULKNER GOT WHAT HE WANTED

Even as Chichester-Clark was falling, internment was not one of his central demands. When Faulkner took over the policy change was immediate. Some time in April, despite the Army's scepticism about internment as a policy, the Director of Military Intelligence at Lisburn set up with the RUC Special Branch a joint "internment working party."

The targets were, from the start, Catholics. The original Ministry of Defence agreement to set up a full scale Military Intelligence in Ulster in March 1970 had been to investigate Protestant extremists, but the IRA bombing campaign had now changed the focus of attention.

The working party had no trouble identifying the leading figures in the Officials and the Provisionals. The Officials, pre-1969, had been highly publicised in the civil rights campaign. And the Provisional leaders were the old-fashioned Republicans that most Special Branch men knew in their sleep. On specialised areas—the bank accounts through which funds passed, for instance—the Army also had good information.

But the younger and newer Provisionals, the actual "gunmen," were almost wholly unidentified. The Provisionals' command structure was equally unknown. (Though Joe Cahill took over as Provisional Chief of Staff when Billy McKee was arrested in March this year, for instance, Intelligence sources seem not to have learned this for five months.)

Filling in the gaps was difficult. In the new housing estates—such as Ballymurphy and Andersonstown, both Provisional strongholds—the police had almost no informers. The Army found it hard to set up an intelligence network (two M15 men who arrived in the late summer of 1970 made a mess of the job). And while the RUC Special Branch had been knocked into fairly good shape by Scotland Yard men in 1970, it was still feeling its way.

Much of the working party's time was spent sorting through thousands of photographs, taken by Army cameramen at riots, funerals, demonstrations, and meetings and comparing the participants with pictures on RUC police files. (Most of the work was done at the RUC headquarters in east Belfast.)

But the working party had no direction whether their list was to cover merely the "gunmen," or all past or present Republicans of any kind. The debate inside the group on this question was interrupted, by a kidnapping and a hold-up.

Around 6 a.m. on July 16, four men dressed in medical-looking white coats walked into the Royal Victoria Hospital in central Belfast, strolled up to Ward 10, and producing Thompson sub-machine guns from under their coats to quell the guards. They removed an IRA Provisional, recently wounded in the leg while placing a gelignite bomb, and drove off with him.

The following evening, July 17, armed men entered the Daily Mirror printing plant in Dunmurry, ordered the workers out of the building, and blew up the presses.

The internment decision effectively stems from that moment. On the Sunday, July 19, Faulkner telephoned Edward Heath in London and said that he thought it was now necessary. When the Army GOC in Ulster, General Harry Tuzo (he had taken over in February) went to London the next day to get a knighthood, the Defense Secretary, Lord Carrington, gave him less welcome news at the same time. Either the Army came up with an alternative policy to internment—which it still opposed—or Faulkner would have to have his way.

Two separate strands are visible in the events that followed: the last-minute efforts to finalise the "internment list," and a search by the Army for an alternative.

Around dawn on July 23, 1,800 troops, and police, raided houses in Belfast and nine other towns in the province. They got what they wanted; both Provisionals and Officials kept no documents on their own activities, but each faction kept excellent files on the other towns in the province. They got what raids followed: by the first days of August, the working party reckoned its list was complete.

There were just over 500 names on it. No more than 120–130 were gunmen or officers in the Officials or the Provisionals. (The breakdown was roughly 80-plus Provisionals to 40-plus Officials.) The other 400 were "sympathisers." A small group actively helped the gunmen—sheltered them, stole cars for them, and so on. Another group was "too close for comfort": speechmakers, editors of news-sheets, and grass-roots radicals whose work coincided at points with that of the Officials.

But there was a special group of eight or ten who were not gunmen, nor had given "aid and comfort," nor preached violence. They were included on the list simply because they were active politicians who, in the wake of internment, would be ringleaders in the uproar. Chief among these was the People's Democracy leader Michael Farrell.

General Tuzo remained highly skeptical about "the Unionists' panacea," as they dubbed internment. It could not work, he said, with the border to the Republic open; and everyone knew there was no chance of the Irish Prime Minister, Jack Lynch, obligingly collaborating by introducing internment in the South, as had happened in the earlier abortive IRA campaign.

Precisely the same conclusion was reached by the Ulster Cabinet. Afterwards, it was said that the British Government only sanctioned internment at the request of the Northern Ireland Government. This is not so.

Faulkner's Cabinet met on Tuesday, August 3. Internment was the main topic, but although on first impression everyone favoured it, such "ifs and buts" emerged that in the end the Ministers reached no consensus, and made no recommendation either way. Nor did Faulkner ask them to make one. Uncharacteristically, he said little the entire meeting.

All that the Ulster Cabinet did agree was that if internment was to be effective, it had to come in the South at the same time. Faulkner said simply "London will have to pursue that."

On Thursday morning, August 5, the Joint Security Committee met in Stormont Castle: Faulkner in the chair as usual and, round the table, politicians like John Taylor, the junior Minister for Home Affairs, a couple of civil servants, the new RUC Chief Constable Graham Shillington, and the Army contingent led by Tuzo. Even here opinion was against internment. Shillington reported that only a minority of the police favoured

it, and those mostly men on the border, not officers in hot spots like Belfast.

That afternoon Faulkner and Tuzo left secretly for London. (The first Faulkner's Cabinet heard of the visit was on television news that evening. They were affronted: "Who does he think he is?" was their main reaction.)

At the Ministry of Defence in the office of the Defence Secretary, Lord Carrington, Tuzo repeated his objections to internment. But in the last analysis Tuzo did not object to the policy. He could offer nothing else which held out the hope of checking the violence (91 bomb explosions in July) and he accepted the necessity to do something to restore the morale and authority of Stormont.

Then Carrington walked across Whitehall and into 10 Downing Street for the Cabinet meeting.

ESCALATION AS THE PRICE FOR AN EASY OPTION

Faulkner was impressive at the Cabinet—"full of confidence and raring to go," according to one account. Maudling was shrewd enough to see that the analogies Faulkner had been drawing between his success in 1959 and now were shaky, but Maudling was alarmed and anxious at the increasing violence and he, too, had no other policy: with the Immigration Bill and Ulster it had been a tiring period for Maudling. If Faulkner wanted to try it, why not? He gave his support. So did Carrington and William Whitelaw, the Lord President and Leader of the Commons.

There was no real opposition. Tuzo was called in but not to give his views, merely to answer technical questions about the military requirements of the operation.

Faulkner had got what he wanted.

It requires an effort now to recall the euphoria with which internment was launched and its early results celebrated.

"We have forced the gunmen into the open," said Brian Faulkner. "We've Licked the IRA" cried an Evening Standard headline, quoting Brigadier Tickell, the Army spokesman, five days after the first early-morning arrests. General Tuzo is now a convinced upholder of internment; the Army believes it is getting on top."

At the time the Army's "suggestion" for detention numbered only in the 100 region and the actual order to round up several hundred surprised them.

So far the harsh arithmetic of the three months and 12 days since internment supports Tuzo's earlier position of scepticism: twenty-six British soldiers killed against a total of 10 dead in the previous seven months; 110 wounded against 67.

The RUC has suffered even more severely. Nine policemen—most of them unarmed—have died since internment came in; before that, just two had been killed all year. The impact on civilians has been just as bloody. Up to internment, 15 were known to have been killed; at least 57 have died since then.

The tempo of the bombing has also accelerated alarmingly. In the period up to internment there were just under 300 explosions in which an estimated 3,318 pounds of gelignite were used. Since then a massive 6,200 pounds of explosive has been used in some 380 bombings.

The aftermath of the internment decision has been reported amply and recently in this and other newspapers. The aim in these articles has not been to repeat that exercise, but to reach back in time and reconstruct the circumstances which led the British Government to this desperate choice.

What is worth repeating, however, is that exactly the same process went into the decision as into the previous escalations of 1960 and 1970. That is, the British Government adopted without serious struggle the option which would enable it to stave off for the moment any assumption of direct responsibility for the affairs of Ulster. Brian Faulkner let it be understood, that internment was the price of his own survival.

This is a syndrome which has now worked itself out three times. Each time, it has monstrously inflated the burden of responsibility which some British Government is going to have to assume, some time or other—at least, if the theme of our history is correct.

CORRECTIONS

The 20,000-word first installment last week of A Perspective on Ulster contained a number of errors of detail, mostly minor. They were:

Page 16, col. 7: The self-styled "Chief of Staff" of the UVF was Samuel Stevenson.

Page 17, col. 2: The Commissioner of Police in Belfast was Harold, not Arthur, Wolseley.

Page 17, col. 4: For Shoreland, read Shorland; eight, not ten, extra armoured cars were ordered.

Page 17, col. 5: The Browning calibre is 0.303, not 0.30.

Page 18, col. 1: The RUC man killed in the Shankill riots of October, 1969, was Constable Victor Arbuckle, not an Inspector.

Page 18, col. 3: For Paddy Sullivan, and Paddy Kennedy. (This was an error in setting, as the context will have made clear.).

Page 18, col. 6: Brigadier Hulson's title was Brigade Commander, 39 Brigade:

Page 19, col. 7: The battle in St. Matthew's churchyard took place from the cover of the building, and a few small monuments outside. There are no gravestones.

Page 19, col. 7: For Terence Street police station, read Tennent Street.

Page 19, col. 7. William Long was an ex-Minister for Home Affairs. At the time of the Falls curfew he was Minister of Education.

NOMINATION OF DR. EARL BUTZ AS SECRETARY OF AGRICULTURE

Mr. HUMPHREY. Mr. President, I have recevied a telegram from Mr. Carroll G. Wilson, president of the Minnesota Farm Bureau Federation, in which he states that organization's position in favor of the confirmation of the nomination of Dr. Earl Butz as Secretary of Agriculture.

So that the record will be clear, I wish to point out that at no time have I represented the official position of the Minnesota Farm Bureau Federation to be other than it is.

I have stated that I have received communications from individual members of that organization stating their opposition to Dr. Butz' confirmation. These communications are among several hundred I have received which overwhelmingly oppose his confirmation.

Mr. President, I ask unanimous consent that Mr. Wilson's telegram be printed in the RECORD.

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

MINNESOTA FARM BUREAU FEDERATION,
St. Paul, Minn., November 22, 1971.

Senator HUBERT H. HUMPHREY,
Senate Office Building,
Washington, D.C.

HONORABLE HUBERT H. HUMPHREY: Board of director, Minnesota Farm Bureau Federation meeting this date notes, November 20 Minneapolis Tribune wire services story reporting, "The Minnesota Farm Bureau, the State affiliate of the conservative farm organization which usually opposes him (Humphrey), has wired him (Humphrey) to ask him to fight Butz." No officer or member of board of directors has authorized any such statement in any form. Urge you correct wire services story. We believe Mr. Butz, whose lifelong dedication to agriculture is well known, has background equaling or surpassing that of many former Agriculture Secretaries. It is our hope that Senate confirms Earl Butz.

CARROLL G. WILSON,
President.

THE ARROGANCE OF BIG LABOR

Mr. FANNIN. Mr. President, for almost two centuries we and our forefathers have been seeking to maintain a healthy balance among the many competing interests within America.

When any one element has become too powerful, when any one segment begins to dictate to all others, then it is time to make some adjustments and to bring our system back into balance.

When big business became dictatorial, it was slapped down by tough antitrust laws.

Now it is big labor that is out of hand and threatening the well-being of our Nation. Big unions are on a course that is destructive of our economy and our American system of free enterprise.

The arrogance of big labor was on display for the Nation last Friday in Florida. The union chiefs and their yesmen put on a rude demonstration of their disdain not only for the President of the United States but for the people of the United States.

This response to the President obviously was staged by George Meany, president of the AFL–CIO. The sneers and snickers were on cue.

I noted that earlier in the AFL–CIO convention Mr. Meany had taken delight in questioning the intelligence and ability of the nonlabor appointments to the Pay Board.

Mr. Meany made it clear that he has no respect for anyone who does not jump when he or the other officials of big labor give the signal.

The union position as pronounced by Mr. Meany is astounding.

We are told that the unions will cooperate with the President's economic program only when it is to their benefit. They will not cooperate in any instance which calls for the union leaders or members to share in the sacrifices that are necessary to bring stability to our economy.

George Meany and the unions are following a selfish and destructive policy.

It has been said that "statesmanship" is a dirty word among labor leaders. Union chiefs believe that they must continue to push for higher and higher wages and more benefits for workers regardless of productivity or economic conditions or other realities. They operate with blinders on.

Union leaders who now virtually rule industries are ruining many of these industries. They are grasping for political power and for immediate exorbitant benefits at the cost of eventual annihilation for their industries.

Now the unions are threatening to try to ruin the administration's economic program—a program which contains many features long advocated by the union leaders themselves. Yes, the union

leaders say they will sabotage the program whenever decisions go against them in the stabilization program.

Mr. President, it will be a disaster if our Government allows a relatively small segment of our population represented by the union leaders to derail our anti-inflation efforts. And it clearly will be their fault if this program should fail.

I applaud President Nixon's declaration that he will follow through with this vital program with or without the cooperation of the support of union officials. It is the President of the United States, not the president of the AFL–CIO, who is in step with the workers and the vast majority of the American people.

Mr. President, the New York Times carried a very interesting editorial on the efforts of the unions to undermine phase II. I request unanimous consent that the editorial be printed at this point in the RECORD:

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

UNDERMINING PHASE II

Organized labor no longer seeks to disguise its basis for participation in President Nixon's anti-inflation program. The resolution adopted by the A.F.L.–C.I.O. convention and the keynote speech by George Meany make it plain that the aim of the labor members on the tripartite Pay Board is to defeat the goal of wage stabilization.

Under the federation's program, unions would keep right on grabbing everything they could at the bargaining table or on the picket line, in an endless repetition of the process that has robbed past pay boosts of any worth in increased purchasing power.

Forgotten are the two years of clamor by labor and its Democratic allies in Congress for Presidential action to control the runaway spiral. Now that Mr. Nixon has belatedly embraced economic activism, labor accuses him of a diabolical plot to "destroy free collective bargaining." And committees of House and Senate are busy redrafting the Economic Stabilization Act to insert weakening provisions the unions could not push through the semi-autonomous Pay Board.

The key element in the A.F.L.–C.I.O. indictment of the board is that it has refused blanket validation of all collective bargaining agreements, no matter how inflationary. Yet the Federal courts, in the gold and mortgage moratorium cases in the early years of Franklin D. Roosevelt's New Deal, laid down the principle that Government's right to fulfill its constitutional responsibilities could not be impaired by pre-existing contracts. That principle was reaffirmed just last month by the three-judge Federal court, which upheld the present wage control law.

Indeed, the five labor members of the Pay Board were themselves ready to compromise inside the board on the issue of contract validity. Their formal written proposal would have made existing pacts subject to review if they called for pay increases "unreasonably inconsistent" with the board's basic criteria. The only real difference between their suggestion and the one finally adopted by the public and industry members was that the labor bloc would have specifically eliminated all increases up to 8 per cent from challenge. The majority plank omits any such figure.

The unfortunate fact is that the official standard contains far too much elastic, as was demonstrated yesterday by the joint vote of the Pay Board's industry and union members to let go into effect unchanged the first-year increases called for by the highly inflationary strike settlement just negotiated in the coal mines.

The three public members who voted against approving the pact estimated that it provided an increase of 16.8 per cent in hourly compensation, or more than triple the 5.5 per cent ceiling established by the board for postfreeze contracts. The industry and union members, putting the increase at something over 15 per cent in pay and fringe benefits, resorted to some tortured rationalizations to explain why none of it breached the general pay rules.

Few will doubt, however, that the decision represented an abject surrender to economic power of precisely the type that organized labor intends to make the norm in its mockery of a control program. The coal operators, with the steel and copper companies and the electric utilities as dominant elements in their industry, were willing to give the shaky leadership of the United Mine Workers what it felt it needed to stay in command. Gov. Arch A. Moore of West Virginia used all his political clout to help lobby the increase through.

Undoubtedly, the Governor will now accompany the operators on a pilgrimage to the Price Commission to win a similar green light for coal price increases far above the economywide level of 2.5 per cent. The commission's chairman, C. Jackson Grayson, has said that the board may balk—as it should—at granting a pass-along in higher prices for labor costs above the basic Pay Board ceiling. There would be no better place to start than with the inflated settlement in coal.

President Nixon, in his speech before the A.F.L.-C.I.O. yesterday, emphasized his own resolve to persist in the war against inflation, whether or not he had the cooperation of labor, industry, or any other group. On this issue we believe the President is entitled to unequivocal support. The initial breach driven by labor and industry into an equitable system of wage-price restraints is one too many.

Mr. FANNIN. Mr. President, an article published in tonight's Washington Evening Star also should be of great interest to the Senate. Columnist David Lawrence is the writer, and his piece is very appropriately entitled "Biggest Monopoly Ever Developed." I ask unanimous consent that the column be printed at this point in the RECORD.

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

BIGGEST MONOPOLY EVER DEVELOPED

(By David Lawrence)

The real controversy that confronts the nation today is not just between the AFL–CIO leaders and President Nixon but over the continuance or discontinuance of the monopolistic power held by one group in this country.

The antitrust laws forbid businesses to organize and fix their prices together, but national labor unions have assumed the right to set wages at arbitrary levels. These rates of payment imposed by big unions in major industries have been accepted in their lines of work as a proper basis for contract demands.

Whether the wage scales are equitable or whether they reflect the productivity which management needs in order to justify certain wage costs as a basis for price increases that are not inflationary is not given any consideration by the negotiators for unions.

Now when the government steps in with a Pay Board and tries in a national emergency to find some way to bring about a system that will restrain wage increases so that prices will not have to be so high, the cooperation of union labor is withheld by the leaders, who insist they will be their own judges of what the rates shall be.

This defiance of governmental guidelines and mediation is at the moment producing much concern because, unless a method is found to get teamwork from the labor side, there is little hope that inflation will be restrained. Management will have to pay extremely high wage rates, and prices will, of course, have to be raised accordingly.

President Nixon has been trying to persuade labor that the mechanism of the Pay Board is designed to be fair and to apply a judicial attitude toward the questions that arise. But if the unions insist they must have their way, there will be no opportunity to control some of the principal factors that have been causing the inflationary curve to move upward.

What is surprising is that Congress has stood by without taking any steps to enact legislation that is long overdue—namely, to remove the monopoly power held by labor unions. If companies entered into the kind of agreements for an entire industry that unions make, they would be prosecuted under the antitrust laws.

Perhaps one reason for the failure to take up such legislation is that the officials of unions have persuaded a lot of their members to contribute to the campaign funds of senators and representatives. It is believed that a large number in both houses of Congress are obligated to labor-union support.

The law, of course, forbids labor organizations themselves to contribute, but individual members are not restricted from doing so. Campaign committees are set up by unions which canvass workers and obtain contributions for political purposes.

The whole situation has for years been ignored by Congress, which now and then takes up the question of money coming from big contributors to political campaigns but avoids any restrictions on the flow of funds through indirect channels to congressional candidates from labor-union members.

The net result is that labor unions are unrestrained in the exercise of the biggest monopoly that has ever been developed, and they hold the greatest amount of power in our economic system, even though they represent only one quarter of the nation's labor force.

The President of the United States is having a hard time battling with the unions. When they determine not to pay attention to governmental guidelines as he carries on his fight against inflation, there is very little that can be done unless Congress takes a realistic view and writes an effective anti-monopoly law applying to labor organizations.

There are many people who feel that the rank and file of labor favors cooperation with the government. But their leaders evidently hold a different view. They seem to think that their own elections to union offices depend upon demanding higher and higher wages for the members and conducting a fight against the government's efforts to curb inflation and hasten recovery. But, in the long run, if the economy is hurt by such tactics, union members will be hurt too.

RESOLUTION ADOPTED BY THE BOARD OF DIRECTORS OF THE SANTEE ELECTRIC COOPERATIVE, INC.

Mr. THURMOND. Mr. President, the board of directors of the Santee Electric Cooperative, Inc., Kingstree, S.C., in its regular monthly meeting on October 14, adopted a resolution.

This resolution urges the Office of Management and Budget to release all funds appropriated for the REA in order that electric cooperatives may keep pace

with increasing costs to improve their systems.

The resolution states that Congress has appropriated for the Rural Electric Administration a sum of $545 million and that the OMB has authorized a release of only a portion of these funds.

Mr. President, I ask unanimous consent that this resolution be printed in the CONGRESSIONAL RECORD.

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

RESOLUTION

Whereas, Congress has appropriated for the Rural Electrification Administration a sum of $545,000,000, and

Whereas, The Office of Management and Budget has authorized the release of only a portion of the funds, and

Whereas, there is an immediate need for the release of all of the funds so appropriated to improve electrical systems and to keep pace with the increasing costs.

Now, therefore, be it resolved, That the Board of Trustees of Santee Electric Cooperative, Inc. ask our Senators and Congressmen to request the Office of Management and Budget to release all funds appropriated for the REA in order that electric cooperatives may keep pace with the increasing costs and to improve their systems.

I hereby certify that the above is a true and correct copy of a Resolution duly adopted by the Board of Trustees of Santee Electric Cooperative, Inc., Kingstree, South Carolina, at its regular Board Meeting on the 14th. day of October, 1971.

R. S. BURGESS, Jr.,
Secretary,
Santee Electric Cooperative, Inc.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

The PRESIDING OFFICER (Mr. GAMBRELL). Under the previous order the Chair lays before the Senate the unfinished business, H.R. 11731, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a quorum call—and it will not be live, so far as the Senator from Montana is concerned—with the proviso that at its conclusion the distinguished Senator from Louisiana (Mr. ELLENDER), the chairman of the subcommittee handling the bill, be recognized; and that he be followed by the distinguished Senator from North Dakota (Mr. YOUNG), the ranking Republican member of the Committee on Appropriations.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ELLENDER. Mr. President, the bill pending before the Senate this morning is the Defense appropriation bill, I wish to say that the Defense Subcommittee of the Appropriations Committee completed hearings on the original requests in this huge bill last June. Since then, we have been awaiting action on the part of the House. The House, of course, was not able to complete action on the bill, because the authorization bill had not been enacted. It will be recalled that 2 or 3 months elapsed before that bill was enacted and the House could proceed with the appropriation bill.

Mr. President, it is my hope that next year the committee will be able to start early and complete action on the 14 regular bills before June 30. I think that is entirely possible, if we provide a rule that all authorizing legislation must be passed on or before June 1. If the authorizing legislation is not enacted, then it will be up to the Senate and the House to proceed with the remaining appropriations and by way of supplementals provide for necessary items.

I can see no reason why the Defense bill, which entails expenditures of over $70 billion, should be held back, because of a lack of authorization on a few items for hardware. There is no reason, for instance, why we should not provide the sums necessary for continuing programs, such as the pay of civilian and military personnel and the maintenance and operations costs of all three departments. These are the items that are required for the day-to-day operation of the Department of Defense.

This is also true of other departments and agencies. If we were able to enact those general appropriations bills prior to June 30 of next year and the years that follow, I am sure that it would be a great help to the Executive Department.

Unless appropriations bills are enacted prior to June 30, we are forced to resort to continuing resolutions. I do not like that method of financing. It has been established for some years, but at times it has been abused.

Such a procedure places in one bill—the continuing resolution—not only authorizations for a program, but appropriations for that program equal at least to what was spent the year before. An example, this year is the OEO program which is normally considered in the Labor-HEW appropriation bill. Since OEO was not authorized by the time we handled the Labor-HEW appropriation bill in August, it was omitted from that bill but it was authorized and appropriated for in the continuing resolution—so far for almost one-half the fiscal year.

That, Mr. President, has happened not only in OEO, but in several other programs. Foreign aid is another instance. We are continuing the authority for foreign aid in a continuing resolution. Foreign aid, to all intents and purposes, died when the main bill that was passed by the House of Representatives was killed by the Senate recently.

Although the legislation upon which it was to be continued during fiscal year 1972 is dead, the program is continuing under a continuing resolution.

The last continuing resolution that we enacted last week developed as follows: There was a provision made in the House joint resolution that the program would continue during the entire time that Congress would be in session for the first session of this Congress. The Committee on Appropriations of the Senate felt otherwise, and we fixed December 1 as a final date, believing that the bill could be completed by that date.

But, Mr. President, there was something that the Committee on Appropriations did not know at the time. We did not know that the House of Representatives had agreed to recess over the Thanksgiving holiday for 10 days, to come back next Monday. In the meantime, there would be no one on the House side to take care of enacting the extension or a new bill. The House refused to agree to the resolution that the Senate had passed, to make the continuing resolution valid until December 1, and to provide that the expenditure rate would not exceed the rates agreed to in the two authorization bills passed by the Senate.

The Senator from North Dakota (Mr. YOUNG) and I were consulted by the House side, and we also had a meeting at the White House. The President called us there to explain to us what had happened, and the necessity for proceeding with an extension of the resolution. After quite a little debate, it was decided on our part to extend the continuing resolution to December 1. But in the meantime, as I have stated, the House of Representatives failed to pass the continuing resolution that the Senate had passed. Someone objected, the position taken being that there was no possibility of the House of Representatives completing its work by December 1, after it returned from the holiday recess on November 29.

The Members of the Senate who attended the conference at the White House at the time insisted on December 1, as the date to which the continuing resolution should be extended but when we saw that the House of Representatives would not agree to that date, we agreed to extend the continuing resolution until December 8.

It is felt that between the time the House of Representatives returns, and December 8, the President should have on his desk the authorizing legislation necessary not only for the foreign aid program, but also the appropriation for the District of Columbia and for certain supplemental appropriations. It is my hope that as soon as the House of Representatives returns, it will pass authorizing legislation, so that on or before December 8 of this year, we will have completed work on all appropriation bills.

I am sure that that is possible. It would have been possible by December 1, if the House had remained in session, as

the Senate has. But all of that, Mr. President, is water under the bridge. I am not blaming the House of Representatives. I now understand that this agreement of recess for 10 days was agreed upon several weeks ago, but there was no mention made of it at the time, and I did not know a thing about it. When we were informed, we readily consented to extend the time to December 8, I reiterate the hope that we will be able to complete all actions on all appropriation bills on or before December 8.

Mr. President, the Defense Department appropriation bill is the largest single bill to be considered by Congress this session, providing, as it does, funds for fiscal year 1972 to operate and maintain our Military Establishment.

The budget request of the Defense Department was $73,543,829,000. That was composed of the original amount that was requested by the Department, which amounted to $71.8 billion, plus four supplemental appropriations that were added as time went on.

The first supplemental was dated April 29, and was for civilian and military pay increases that Congress enacted effective January 1, 1971. That amounted to $1.6 billion.

The second was a budget amendment submitted June 21 for drug abuse corrective programs. It amounted to $34.2 million.

The third, submitted July 30, was for additional F–111D aircraft and other programs, amounting to $111 million.

In addition, $183,570,000 was requested for the Safeguard anti-ballistic-missile system.

All of those items added together amounted to, in round figures, $73.5 billion.

The bill before the Senate has been reduced from that sum to $70,242,513,000, the amount we are considering today. It is a decrease in round numbers from the request of the Defense Department of $3.3 billion and is a decrease from the House allowance of $805.5 million.

Mr. President, at this point I am not going to go into all the details as to how that amount was reached, but I have here an exhibit explaining this action. I ask unanimous consent that the exhibit be printed at this point in the RECORD.

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

Recommended reductions in the budget requests

[In millions]

Military personnel	$259.7
Operation and maintenance	435.4
Procurement (authorization reductions)	662.6
Procurement (other reductions)	1,330.0
R.D.T. & E. (authorization reductions)	257.0
R.D.T. & E. (other reductions)	282.3
Special foreign currency program	.3
Safeguard ABM construction activities	74.0
Total	3,301.3

The total reduction of $3.3 billion in the budget requests includes the following major categories of reductions: reductions based on the transfer of funds to appropriations in this bill from other appropriations and revolving funds, $945 million; reductions resulting from reductions in active duty military strengths made in the Manpower Authorization Act, $279,100,000; and reductions in intelligence programs, $390 million.

Mr. ELLENDER. Mr. President, we also took into account the work done by the House, including reductions made. We augmented that by $805,500,000. I shall provide an exhibit indicating exactly how that figure was reached. I ask unanimous consent that it be printed at this point in the RECORD.

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

Recommended reductions in the House bill

[In millions]

Military personnel (increase)	$10.3
Operation and maintenance	223.0
Procurement	496.3
R.D.T. & E	101.7
Safeguard ABM construction activities (increase)	5.2
Total	805.5

The total reduction of $805.5 million in the House bill includes the following major categories of reductions: Reductions based on additional transfers from other appropriations and revolving funds, $330 million; additional reductions in intelligence activities, $68.4 million; and reductions based on revised Army ammunition requirements, $78 million.

Mr. ELLENDER. In addition to the referred to reductions, the committee also made certain transfers from old appropriations and revolving funds in lieu of new appropriations. The committee made reductions totaling approximately $945 million based on the transfer to appropriations in this bill of old appropriations and revolving funds. Although these transfers reflect a reduction in new appropriations recommended, they do not reflect a reduction in programs. However, they do result in a decrease in the total funds available to the Department of Defense for obligation.

SUMMARY BY FUNCTIONS AND ORGANIZATIONS

The total recommended by the committee includes funds for the following functional categories:

Military personnel, $21,032,274,000; retired pay, $3,777,134,000; operation and maintenance, $20,212,481,000; procurement, $17,688,992,000; research, development, test and evaluation, $7,410,062,000; special foreign currency program, $12,000,000 and Safeguard ABM construction, $109,570,000.

The total recommended by the Committee includes funds for the following organizational components:

Army, $20,151,430,000; Navy and Marine Corps, $22,319,519,000; Air Force $22,177,812,000; Defense Agencies/Secrestary of Defense, $1,816,618,000 and retired pay, $3,777,134,000.

Each of these organizational components will be discussed later.

The appropriations for fiscal year 1971, the 1972 budget requests, the House allowances, and committee recommendations for each of the major functional categories and organizational components are set out in the tabulation on page 2 of the report.

SUMMARY

While the committee has recommended reductions of $3.3 billion in the budget requests considered, its reduction in requested programs is about $2.4 billion when the $0.9 billion in transfers are considered.

In the case of the recommended reduction of $805 million below the House bill, $320 million results from additional transfers, so the "program" reduction below the House bill is about $485 million.

Mr. President, I also ask unanimous consent to have printed in the RECORD a summary of the total cost of all the functions of the various departments, concluded as exhibit B.

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

SUMMARY OF BILL BY MAJOR CATEGORIES

Functional title	Appropriation, fiscal year 1971 (new budget obligational authority)	Budget estimate, fiscal year 1972 (new budget obligational authority)	House allowance	Senate committee recommendation	Senate committee bill compared with— Appropriations, 1971	Budget estimates, 1972	House allowance
Title I—Military personnel	$22,397,857,000	$21,291,969,000	$21,021,974,000	$21,032,274,000	[1] −$1,365,583,000	−$259,695,000	+$10,300,000
Title II—Retired military personnel	3,391,032,000	3,777,134,000	3,777,134,000	3,777,134,000	+386,102,000		
Title III—Operation and maintenance	20,121,894,000	20,647,834,000	20,435,481,000	20,212,481,000	+90,587,000	−435,353,000	−223,000,000
Title IV—Procurement	16,029,110,000	19,681,660,000	18,185,292,000	17,688,992,000	+1,659,882,000	−1,992,668,000	−496,300,000
Title V—Research, development, test, and evaluation	7,004,187,250	7,949,362,000	7,511,762,000	7,410,062,000	+405,874,750	−539,300,000	−101,700,000
(Transfer authority)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(−300,000,000)		
Title VI—Special foreign currency program	2,621,000	12,300,000	12,000,000	12,000,000	+9,379,000	−300,000	
Title VII—General Provisions (Additional transfer authority, Sec. 836)	(600,000,000)	(1,000,000,000)	(600,000,000)	(900,000,000)	(+300,000,000)	(−100,000,000)	(+300,000,000)
Title VIII—Anti-ballistic missile construction	334,000,000	183,570,000	104,370,000	109,570,000	−224,430,000	−74,000,000	+5,200,000
Total, Department of Defense	[1] 69,580,701,250	73,543,829,000	71,048,013,000	70,242,513,000	[1] +661,811,750	−3,301,316,000	−805,500,000
(Transfer authority)	[1] (950,000,000)	(1,050,000,000)	(650,000,000)	(950,000,000)		(−100,000,000)	(+300,000,000)

Functional title	Appropriation, fiscal year 1971 (new budget obligational authority)	Budget estimate, fiscal year 1972 (new budget obligational authority)	House allowance	Senate committee recommendation	Senate committee bill compared with— Appropriations, 1971	Budget estimates, 1972	House allowance
Distribution by organizational component:							
Army	$20,963,596,000	$21,429,762,000	$20,455,796,000	$20,151,430,000	−$812,166,000	$−1,278,332,000	$−304,366,000
Navy	21,031,336,250	23,354,333,000	22,629,095,000	22,319,519,000	+1,288,182,750	−1,034,814,000	−309,576,000
Air Force	22,101,818,000	23,053,940,000	22,366,770,000	22,177,812,000	−75,994,000	−876,128,000	−188,958,000
Defense agencies/OSD	[1] 2,092,919,000	1,928,660,000	1,819,218,000	1,816,618,000	−276,301,000	−112,042,000	−2,600,000
Retired military personnel	3,391,032,000	3,777,134,000	3,777,134,000	3,777,134,000	+386,102,000		
Total, Department of Defense	[1] 69,580,701,250	73,543,829,000	71,018,013,000	70,242,513,000	[1] +661,811,750	−3,301,316,000	−805,500,000
(Transfer authority)	[1] (950,000,000)	(1,050,000,000)	(650,000,000)	(950,000,000)		(−100,000,000)	(+300,000,000)

[1] Includes $300,000,000 provided for combat readiness, South Vietnamese Forces, Defense, for fiscal year 1971.

Mr. ELLENDER. Mr. President, I wish to emphasize one point to the Senate, as to why the amount recommended by the committee was not less than it provided. The RECORD shows that, although there are a million fewer military and civilian personnel in the Defense Department today than in 1968, the cost is $6.2 billion more than it was that year. In other words, to operate a Department of 1 million fewer personnel, it is costing us $6 billion more. The reason for that is, of course, the various salary increases that Congress voted for our civilian employees as well as for military personnel.

If we use 100 as a base, let us say, in fiscal year 1964, the first salary increase in 1964 made that base rise, insofar as the military basic pay was concerned, from 100 to 110.65 and the classified civilian employee base from 100 to 102.05.

The cumulative effect of all the raises from October 1, 1963, to November 14, 1971, was a base pay rise from 100 to 220.24 for the military and from 100 to 155.39 for classified civilian salaries.

So it can be seen why, with a million fewer people, the cost to the taxpayers is $6 billion-plus more.

Exhibit C details how this occurred. I also ask unanimous consent to have printed in the RECORD a tabulation of military and civilian pay raises since fiscal year 1964, expressed in percentage figures.

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

MILITARY AND CLASSIFIED CIVILIAN PAY RAISES SINCE FISCAL YEAR 1964

[In percent]

	Military basic pay	Classified civilian salaries
Oct. 1, 1963	14.2	
Jan. 5, 1964		4.1
July 1, 1964		4.2
Sept. 1, 1964	2.3	
Sept. 1, 1965	10.4	
Oct. 1, 1965		3.6
July 1, 1966	3.2	2.9
Oct. 1, 1967	5.6	4.5
July 1, 1968	6.9	4.9
July 1, 1969	12.6	9.1
Jan. 1, 1970	8.1	6.0
Jan. 1, 1971	7.9	6.0
Nov. 14, 1971	11.6	
1. Base prior to fiscal year 1964 raises	100.0	100.0
2. Effective rate in fiscal year 1964	110.65	102.05
3. Cumulative effect of above raises from base 1	220.24	155.39
4. Ratio of current rate to average amount paid fiscal year 1964 (line 3 plus line 2)	191.4	152.3
5. Effective rate (fiscal year 1972)	211.78	

Mr. ELLENDER. Mr. President, I should like to discuss now, in some detail, a few of the programs of the Army. I have already placed in the RECORD the recommendations of the committee which include $20.2 billion for the Department of the Army for fiscal year 1972. Broken down, the military personnel and operation and maintenance appropriations amounted to $15.3 billion for the support of an active army with an end strength of approximately 893,000 personnel, the Army Reserves with a paid drill strength of 260,000, and the Army National Guard with a paid drill strength of 400,000. All of that, of course, is fixed by the law. The Armed Services Committees authorize the man-year strength of the services. Mr. President, I ask unanimous consent that exhibit D be printed in the RECORD at this point, showing as it does Army forces for fiscal years 1970, 1971 and 1972.

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

SUMMARY OF ACTIVE FORCES

	Actual, June 30, 1970	Planned June 30, 1971	Planned June 30, 1972
Divisions:			
TRICAP [1]		1	1
Airborne	1	1	1
Infantry	5	3	2⅔
Mechanized	4	4	4
Armored	4	3	3
Airmobile	2	1	1
Total	16	13	12⅔
Independent brigades	4	2	1
Active duty military personnel [2]	1,322,548	[3] 1,107,200	[4] 893,474
Reserve component personnel (paid drill training)	669,846	660,000	660,000
Army National Guard	409,192	400,000	400,000
Army Reserve	260,654	260,000	260,000

[1] The Tricap (Triple Capability) Division is an experimental division consisting of a combination of armored, air cavalry, and air mobile units.
[2] Includes reimbursables.
[3] Reflects revised end strength in fiscal year 1971 column of fiscal year 1972 President's budget.
[4] Reflects change from President's budget to comply with authorized average strength in Public Law 92-129.

Mr. ELLENDER. Mr. President, the total for Army procurement, which is, of course, separate and apart from military and civilian pay and the operation of the Army, is $3.1 billion. This program is discussed in detail in the report at pages 106 to 118 of the report.

This narration is too lengthy for inclusion in the RECORD. However, the report is available on the desk of each Senator and is also available in the Document Room.

For research, development, test, and evaluation the committee recommends approximately $1.8 billion. This program is discussed on pages 165 to 174 of the committee report. One research and development program is that for Safeguard. The committee has recommended for the Safeguard ABM system $1.2 billion, in round figures, which is the amount authorized by Congress.

I wish to say that this amount is to continue development of Safeguard and to continue deployment at the Grand Forks and the Malmstrom sites. Funds are also included for advance preparation at the third and fourth sites at Whitman, Mo., and Warren, Wyo. The committee's recommendations for Safeguard are discussed on pages 16 and 17 of the committee report.

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

Mr. ELLENDER. I yield.

Mr. MANSFIELD. May I say, speaking for the State of Montana—I am sure the Senator from North Dakota (Mr. YOUNG) will speak for his own State, because he was the driving force behind this legislation—I appreciate the fact that the impact on these small towns and communities, on the roads and other facilities which will be affected by the placing of the Safeguard system here, is being protected by the Senate and that the word of Congress is being reinforced, because it is most important. The people in my State, just as in the State of North Dakota, made no effort and did not seek to put any pressure on Congress. But we do think that when the Federal Government puts in installations of this magnitude in States like North Dakota and Montana, the Federal Government has an obligation which will take heed of the needs and difficulties which confront the towns, the small cities and the villages in the area.

I want to express my appreciation for what the Senate has done. I want to express personally to the distinguished Senator from North Dakota (Mr. YOUNG), the ranking Republican on the committee, my appreciation for the intense interest he displayed and the effectiveness with which he has pursued this subject.

Mr. YOUNG. Mr. President, I greatly appreciate the comments of the distinguished majority leader. These are huge installations being constructed in a

sparsely populated area, with only small towns and villages around. These installations employ at any given time 3,000 or 4,000 people, so that the small towns in the area cannot absorb all the needs and wants of these people without some assistance from the Federal Government. I personally would not have signed the conference report without this money in it.

Mr. ELLENDER. As the Senator knows, we have provided for funds in order to cushion the economic impact.

Mr. MANSFIELD. Sewer systems and roads.

Mr. ELLENDER. Yes; for things of that kind.

I want to point out, so it will not be overlooked, that of the amount we are now providing, there is the sum of $54-plus million which is a cost increase because of inflation and additional costs.

As I said a while ago, there is no money in the bill to provide for construction programs, except for the Grand Forks and the Malmstrom sites. There is, however, a small amount for advance preparation for the third and fourth sites at Whiteman, Mo., and Warren, Wyo., as I have stated.

In order to describe this more fully, I ask unanimous consent to have printed in the RECORD pages 16 and 17 of the committee report marked as "Exhibit E."

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

SAFEGUARD ANTIBALLISTIC MISSILE SYSTEM

The recommendations of the committee include $1,191.6 million for the continuation of development and deployment of the Safeguard antiballistic missile system, which amount is a production of $177.4 million in the budget requests that total $1,373.5 million.

The Safeguard system consists of two types of phased array radars, the Missile Site Radar and Perimeter Acquisition Radar, their associated data processors, and the two types of missiles, Sprint and Spartan. The Safeguard mission includes protection of land-based retaliatory forces against a direct attack, protection of the American people against a low-level ICBM attack, and protection against the possibility of accidental attacks. However, the Congress has approved only that part of the mission that provides for protection of the land-based retaliatory forces.

The amount included in the request for each appropriation and the amount recommended are set out in the following tabulation:

[In millions of dollars]

Appropriation	Budget request	Committee recommendation
Military personnel, Army	$14.1	$14.1
Operation and maintenance, Army	90.8	74.8
Procurement of aircraft and missiles, Army	[1] 675.0	[1] 640.0
Research, development, test, and evaluation, Army	410.0	357.6
Military construction, Army	[2] 172.5	[2] 98.5
Family house, Defense	11.1	11.1
Total	1,373.5	1,196.1

[1] Includes $1,000,000 for the procurement of communications equipment that does not require annual authorization.

[2] An additional $20,500,000 is included in the Military Construction Appropriation Act, 1972 (H.R. 11418, Public Law 92–). Of this total, $15,300,000 is for plans and design, and $5,200,000 is for access roads.

The program requested in the budget and the program on which the committee's recommendations are based are set out in the following tabulation:

[In millions of dollars]

	Budget program	Recommended program
Continuation of development R.D.T. & E.	$410.0	$357.6
Continuation of deployment at the 2 phase I sites (Grand Forks Air Force Base, N.D., and Malmstrom Air Force Base, Mont.)	726.6	686.6
Cost increases at the 2 phase I sites	None	54.0
Community impact facilities at the 2 phase I sites	5.2	5.2
Initiation of construction of 3d site at Whiteman Air Force Base, Mo.	34.0	None
Advance preparation at 3d site at Whiteman Air Force Base, Mo.	76.0	76.0
Initiation of construction at the 4th site at either Warren Air Force Base, Wyo., or Washington, D.C., area	95.0	None
Advance preparation at the 4th site, Warren Air Force Base, Wyo	13.0	3.0
Costs not allocated to specific sites	[1] 13.7	[1] 13.7
Total	1,373.5	[1] 1,196.1

[1] An additional $20,500,000 is included in the Military Construction Appropriation Act, 1972 (H.R. 11418, Public Law 92–). Of this total, $15,300,000 is for plans and designs, and $5,200,000 for access roads.

The committee's recommendation for the Safeguard system is in accord with the previous action of the Senate in acting on the Department of Defense Procurement and Research and Development Authorization Act, 1972 (H.R. 8687), which was based on the following recommendation of the Senate Armed Services Committee:

"The committee again this year has decided to confine the authorization for continuation of the Safeguard system to those sites devoted to the defense of the deterrent. However, because of the current construction status, the committee recommends full deployment at only the phase I sites of Malmstrom and Grand Forks. The committee recommends authorization of advance preparation (site survey, land acquisition, and procurement of long-lead items) at Warren and Whiteman Air Force bases only. Authorization of anything beyond study of component configuration of a National Command Authority defensive system is not recommended for fiscal year 1972."

This recommendation of the Senate Armed Services Committee is implemented in Section 403 of the Department of Defense Procurement and Research and Development Authorization Act, 1972 (H.R. 8687), and the funds recommended herein are subject to the restrictions imposed therein. This provision reads as follows:

"SEC. 403. (a) None of the funds authorized by this or any other Act may be obligated or expended for the purpose of initiating deployment of an anti-ballistic missile system at any site; except that funds may continue to be obligated or expended for the purpose of advanced preparation (site selection, land acquisition, site survey, and the procurement of long leadtime items) for anti-ballistic missile system sites at Francis E. Warren Air Force Base, Cheyenne, Wyoming, and Whiteman Air Force Base, Knobnoster, Missouri. Nothing in this section shall be construed as a limitation on the obligation or expenditure of funds in connection with the deployment of an anti-ballistic missile system at Grand Forks Air Force Base, Grand Forks, North Dakota, or Malmstrom Air Force Base, Great Falls, Montana.

Mr. ELLENDER. Mr. President, we now come to another program, the Cheyenne helicopter and the Air Force A–X close support aircraft.

When I first studied these two programs, I found they had the same objective; that is, close air support. I wondered why it was that the Army was building the Cheyenne helicopter and that the Air Force was also building the A–X for the same purpose.

I suggested to Mr. Packard that a selection should be made between them. The Senator from North Dakota (Mr. YOUNG) was present when we discussed this. We both felt at the time that there was no necessity to build two different pieces of hardware to accomplish essentially the same purpose; namely, that of close air support.

In the discussion that took place, as I recall, Mr. Packard at first indicated that a selection would be forthcoming.

After several months of study, however, Mr. Packard came to the conclusion, as I recall it, that there had not been enough study made of either the Cheyenne helicopter or the A–X close air support aircraft. Mr. Packard, as well as two or three others involved in this matter discussed it with the Senator from North Dakota (Mr. YOUNG) and me. They decided not to go ahead with procurement of either one, because they felt it best to have further research done on both of these programs. At the suggestion of the Department the committee decided to provide $9,300,000 for further study of the Cheyenne armed helicopter program. It was believed that after another year's study, the Department would be in a better position to make a decision as to the capability of both that aircraft and the A–X airplane.

The amount necessary to further study the A–X airplane was $47 million and it was provided.

Mr. President, I realize that is quite a large sum of money.

However, the committee felt it was needed so that we could make a definite determination as to which of the two was better.

I feel confident that by the expenditure of the sums just indicated the Defense Department will be in a much better position to say which of the two systems is the better for the mission. In the long run, there is little doubt that this course will save the taxpayers money.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD exhibit F, which indicates in detail what will be done with this money and the reason why the committee decided as it did.

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

CHEYENNE ATTACK HELICOPTER PROGRAM

The fiscal 1972 budget request for the appropriation "Procurement of Equipment and Missiles, Army" includes a request of $13.2 million for the advance production engineering for the production of the Army's Cheyenne attack helicopter. These funds have been disallowed, in accordance with the action taken in the Department of Defense Procurement and Research and Development Authorization Act, 1972 (H.R. 8687).

The fiscal year 1972 request for the appropriation "Research, Development, Test, and Evaluation, Army" does not include any

funds for the continuation of the development of the Cheyenne. However, on May 28, 1971 the Department of Defense submitted a reprograming action proposing an additional $61,260,000 for the Cheyenne development program, to be derived by transfer from funds provided in the "Procurement of Equipment and Missiles, Army" appropriation for the production of these helicopters. Of this $61,260,000, approximately $35 million was for reimbursement to the contractor for services performed, approximately $9.3 million was for the continuation of the development program during fiscal year 1972, and approximately $17 million was for the continuation of the development program during fiscal year 1973. In acting on this reprograming action, the committee approved only that portion that was required for reimbursement to the contractor for services performed, and the Department of Defense was advised that the committee would consider the inclusion of funds * * *.

SEC. 403. (a) None of the funds authorized by this or any other Act may be obligated or expended for the purpose of initiating deployment of an anti-ballistic missile system at any site; except that funds may continue to be obligated or expended for the purpose of advanced preparation (site selection, land acquisition, site survey, and the procurement of long leadtime items) for anti-ballistic missile system sites at Francis E. Warren Air Force Base, Cheyenne, Wyoming, and Whiteman Air Force Base, Knobnoster, Missouri. Nothing in this section shall be construed as a limitation on the obligation or expenditure of funds in connection with the deployment of an anti-ballistic missile system at Grand Forks Air Force Base, Grand Forks, North Dakota, or Malmstrom Air Force Base, Great Falls, Montana.

Mr. ELLENDER. Mr. President, there is another program that was a little contentious. That is the Army XM–803 tank, formerly the MBT–70.

It will be recalled that 4 or 5 years ago we entered into an agreement with Germany to make a joint effort to construct this modern MBT tank. Not long after that agreement was entered into, it seems that the Germans desired to go one way and we another. So the Germans proceeded to construct their version of a tank—which is a little different from ours—and we proceeded to go on our own.

Up to now, over $200 million has been spent on research and development on this tank. The House took up the matter, and, after study, decided, as I understand it, that they would much prefer to have a new tank started. I believe the thinking was that the additional cost of research on the MBT–70 tank would be too great. Also, since there had also been spent $200 million on the tank, by the time it was ready for production, it might cost as much as $1 million apiece.

For that reason the House decided not to provide any more funds to develop the MBT–70 tank.

Instead, they provided $20 million in order to start a new tank program. Of course, much of the technical information that was gathered by the Defense Department in developing the MBT–70 could be utilized as well as such other information as they might have.

We called on the Defense Department for its opinion as to what course to pursue. Mr. Laird indicated that he thought it was a bad idea to abandon the MBT–70 tank. He suggested that at least $62.8 million be appropriated for the research on this tank, notwithstanding the fact that we had already spent in excess of $200 million on research and it appeared that the tank would cost between $600,000 and $1 million each.

We discussed the matter with him. When the committee met to mark up the bill, we discussed the pros and cons of the tank situation. It was decided that the committee would recommend in the bill, not the $62.8 million requested by Mr. Laird, but the $50 million, leaving it more or less in the hands of the Defense Department to decide whether or not it would continue the construction of the tank in question or start upon a new one. In the words of the committee report, "The committee has not approved the continuation of the XM–803 program, nor has it recommended its termination. The intent of the committee is to provide $50 million for the development of a new tank."

If the Senate agrees with our view, it will mean that the Senate will provide $50 million for tank development as against $20 million by the House. Of course, we hope we will be able to iron out our differences in conference.

Mr. President, I ask unanimous consent to have printed in the RECORD an exhibit indicating the full discussion of the tank situation.

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

ARMY TANK PROGRAM

The recommendation of the committee for the appropriation entitled "Research, Development, Test, and Evaluation, Army" includes $50,000,000 for the Army's new tank development program.

The budget included $27,500,000 for the continuation of development and $59.1 million for advanced production engineering for the XM–803 (formerly MBT–70) tank program. The Department of Defense Procurement and Research and Development Authorization Act provides for $62,800,000 for the continuation of the XM–803 research and development program, but does not include any funds for the advanced production engineering.

The House disallowed all funds requested for the XM–803 (MBT–70) program and allowed $20,000,000 for the initation of a new program for the development of a new tank. The effect of the House action is to terminate the XM–803 (MBT–70) program.

The committee has not approved the continuation of the XM–803 program, nor has it recommended its termination. The intent of the committee is to provide $50,000,000 for the development of a new tank.

The Secretary of Defense is requested to review the XM–803 tank program and the new prototype tank program proposed by the House and to determine which of these programs he deems to be the most desirable, and the $50,000,000 recommended by the Committee is available for the program the Secretary selects.

Mr. ELLENDER. Mr. President, I come now to the Navy Department, which includes, of course, the Marine Corps. The recommendation of the committee included $22.3 billion, in round figures, for the Navy and the Marine Corps. About $9.8 billion is recommended for Navy military and Reserve personnel, and operation and maintenance required for support of the Navy. These funds will provide an end strength of about 600,000 men, a fleet of some 658 ships, an active aircraft inventory of about 7,100 aircraft, and a Naval Reserve with a paid drill strength of 129,000.

Mr. President, a summary of this material can be found on page 75 of the report. I ask unanimous consent that the summary may be printed in the RECORD at this point.

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

SUMMARY OF MAJOR NAVY FORCES

	Actual, June 30, 1970	Planned[1] June 30, 1971	Planned[1] June 30, 1972
Commissioned ships in active fleet	769	710	658
Warships	420	411	403
Other	349	299	255
Submarine-launched ballistic	656	656	656
Attack and ASW support carriers	19	18	16
ASW and air defense escort ships	231	226	227
Amphibious assault ships	99	82	76
Aircraft inventory (active)	7,929	7,359	7,141
Tactical aircraft (Navy and Marine Corps)	2,328	2,271	2,208
ASW aircraft	744	759	745
Active duty military personnel Navy	692,435	622,565	603,548
Reserve components personnel (paid drill training): Naval Reserve	127,645	[2] 139,437	129,000

[1] Reflects the President's fiscal year 1972 budget.
[2] Reflects end-strength required to obtain the 129,000 man-year average authorized.

Mr. ELLENDER. Mr. President, I also ask unanimous consent to have printed in the RECORD a summary of Marine Corps forces.

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

SUMMARY OF MARINE CORPS FORCES

	Actual June 30, 1970	Actual June 30, 1971	Planned June 30, 1972
Marine divisions (active)	3	3	3
Marine aircraft wings (active)	3	3	3
Active duty military personnel	259,737	211,548	206,315
Reserve components personnel	47,880	48,276	44,613

Mr. ELLENDER. We have provided approximately $8.5 million for Navy and Marine Corps procurement programs. These are described in the committee report on pages 119–147. A total of approximately $2.3 billion is recommended for the Navy's various research, development, test and evaluation programs. These programs are discussed on pages 174–186 of the committee report.

There were three items of particular interest. One was in reference to the F–14. There was some discussion in committee as to whether or not we should proceed with an option that we have to contract for 48 F–14 aircraft. The committee concluded to concur in the House action.

Under an existing contract we can exercise four separate options with Grumman, the concern now building the aircraft for the Navy. The contract entails construction of 48 planes at a cost of $66.03 million exclusive of initial spares. Some think a better plane can be obtained, but this better plane will cost much more money, and if changes are decided on by the Department, we are going to have to pay a heavy penalty to the manufacturer. In other words, we would experience large-scale cost escalation as we have had on other contracts, such as we have had in the past in connection with the C–5, the F–111, and others.

The expert advice of Mr. Packard and others indicated that it was best for the Government to exercise the first option and buy the 48 planes, even though there is an engine under development which may prove better. Some who opposed this argued that less money would be used if presently available aircraft were utilized after improvement. But we received expert testimony, to my mind, that indicated if we made these changes we would still have an older aircraft and it would be impossible for us to construct it so that it would be as good as the F–14 that we hope to purchase. It was further brought out that a new engine that is being developed for the F–14 and the possibility exists that this improved engine can in later years be installed in the 48 aircraft that we have bargained for. The committee recommends an appropriation of $1,029.8 billion for the F–14 program.

As I said, there is a second option that the Navy is considering for fiscal year 1973. When we consider funding the program for that year, we shall again be faced with a decision as to whether the contractor will be able to perform under the contract.

The committee regrets that all of these 48 aircraft will be of the F–14A configuration without the new technology engine. The committee has requested the Department to take steps to insure that future production of this aircraft will be of the F–14B configuration with the new engine, and to give consideration to equipping the F–14A aircraft with the new engine in order to reduce the number of F–14B's that will have to be produced.

The F–14 program is discussed on pages 21 and 22 of the committee's report.

Mr. President, a more detailed account of this transaction and a description of the plane involved in that option will be shown in exhibit J, which I ask unanimous consent to have printed in the RECORD at this point.

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

F–14 TOMCAT FIGHTER AIRCRAFT

The recommendations of the Committee include $1,029.8 million for the Navy's F14A/B Tomcat fighter aircraft. The recommended funds are for the following purposes:

Procurement of aircraft.—$600.8 million is recommended for the procurement of F–14A aircraft. The recommended sum and $59.5 million of advance procurement provided in the fiscal year 1971 program will provide a total of $660.3 million for the procurement of 48 of these aircraft.

Advance procurement.—$84.8 million is recommended for advance procurement to support the planned procurement of F–14 aircraft in fiscal year 1973.

Spares and repair parts.—$116 million is recommended for the procurement of initial spares and repair parts for the support of F–14 aircraft.

F–14A development program.—$128 million is recommended for the continuation of the F–14A aircraft development and testing program.

F–14B development program.—$100.2 million is recommended for the continuation of the development of the advance technology engine for the F–14B aircraft. This program is a Navy-Air Force joint program for the development of the advance technology engine for the F–14B aircraft. This program is a Navy-Air Force joint program for the development of an engine for the F–14B and the Air Force's F–15 air superiority fighter. This new engine will have a gas generator (core) that is common to both versions. The Navy version of this new engine will produce approximately 40% more thrust and weigh approximately 25% less than the engine used in the F–14A.

In recommending these funds the Committee expects the Navy to obtain these 48 aircraft in accordance with the existing contract terms. On this point the Chairman of the Board of Directors of the prime contractor in a letter to the Deputy Secretary of Defense, dated July 27, 1971, said:

"In response to your call of last week requesting a commitment from the Grumman Aerospace Corporation that we will build (48) F–14A's as presently configured at the contract price if the Department of Defense Fiscal Year 1972 program for the F–14 is authorized and funds appropriated, *I wish to advise you that we will.* We have arrived at this conclusion after extended conversations with the Navy." (Italic added.)

The F–14A is a two-place, tandem seat, variable sweep wing, supersonic, carrier-based aircraft designed to replace the F–4 aircraft in Naval fighter and fleet air defense roles in the 1973–1980 time period. It will have visual attack and an all-weather capability to deliver Phoenix and Sparrow air-to-air missiles using a modified AN/AWG–9 weapon control system. It will be equipped with the M–61 gun and Sidewinder air-to-air missiles for close-in air-to-air combat. The F–14A version is powered by two TF–30–P–412 engines, and the F–14B version will be powered by two F401–PW–400 advance technology engines.

It is the view of the Committee that the Department of Defense and the Navy should take whatever steps are necessary in order to obtain the F–14B aircraft with the advance technology engine as soon as possible. Furthermore, consideration should be given to the reasonability of equipping all F–14A aircraft with the advanced technology engine.

The F–14 aircraft program is discussed on pages 734–740, 868–869, and 1130–1150 of part 3 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Mr. ELLENDER. Mr. President, we have recommended $881 million for five nuclear attack SSN class 688 submarines. In addition $22.5 million was authorized for advance procurement for an additional one. The House allowed the funds, but there is no budget estimate for that. We gave it consideration, but decided not to go along with the request. What we did was to follow the advice of Mr. Packard and Mr. Laird in providing for five submarines, and let the additional one wait until next year.

Pertinent reference will be found in exhibit K, which I ask unanimous consent be made a part of the RECORD at this point.

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

NUCLEAR ATTACK SUBMARINES (SSN CLASS 688)

The committee's recommendations for the appropriation entitled "Shipbuilding and Conversion, Navy" includes $881 million for the SSN Class 688 nuclear attack submarine program. These funds are for the following purposes:

Construction of submarines.—$767.5 million is recommended for the construction of SSN Class 688 nuclear attack submarines. This sum and $110 million advance procurement provided in prior fiscal years will provide a total of $877.5 million for the construction of five of these submarines.

Advance procurement.—$113.5 million is recommended for advance procurement to support the planned fiscal year 1973 construction program.

This new class submarine was initially funded in fiscal year 1970 when funds were provided for three, and four were funded in fiscal year 1971. These submarines will have, in addition to their high-speed capability, an improved sensor system, improved acoustic countermeasure, an advanced fire control system, a central computer complex, improved navigational capability, and an advanced electronic countermeasures receiver.

This program is discussed on pages 1307–1312 of part 3 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Nuclear attack submarine (SSN–688 class).—$767.5 million is recommended for the construction of advanced SSN–688 class nuclear attack submarines. This sum and $110 million advance procurement provided in prior years make a total of $877.5 million available for the construction of five of these submarines. In addition to its increased speed capability, this new class of nuclear attack submarine will have an improved sensor system, improved acoustic countermeasures, and advanced fire control system and a central computer complex to integrate the navigation, fire control and electronics countermeasure receivers in one system. Seven of these submarines were funded in fiscal years 1970 and 1971. The mission of this high-speed vessel is to destroy enemy submarines and surface ships in order to prohibit the employment of such forces in attack and destruction of U.S. or allied targets.

In addition, $113.5 million is recommended for advance procurement of long leadtime equipment for future ships.

Mr. ELLENDER. The committee recommends the appropriation of $194.6 million for the construction of the third nuclear powered guided missile frigate of the DLGN–38 class. The total estimated cost of this ship is $240 million, but this is likely to increase.

At this time, the Department of Defense plans to build only three ships of this class. For this reason, the committee recommends concurrence in the House disallowance of $14.6 million requested for the advance procurement to support the construction of the fourth ship of this class.

This program is discussed on pages 24, 25, and 133 of the committee report. I am sending to the desk exhibit L which I ask to have inserted in the RECORD.

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

NUCLEAR GUIDED MISSILE FRIGATES
(CLASS DLGN-38)

The committee's recommendation for the appropriation entitled, "Shipbuilding and Conversion, Navy" includes $194.6 million for the construction of a third nuclear guided missile frigate of the DLGN-38 class. The sum recommended, and advance procurement of $45.7 million will provide a total of $240.3 million for the construction of this ship. This ship will have a full load displacement of 10,000 tons, and will be 585 feet long with a maximum beam of 63 feet. It will be equipped with the NUC D2G nuclear propulsion system and will have the capability of a speed of 30 knots. Its ordnance includes 2 5-inch guns, ASW missiles, AAW missiles, and Mk-46 torpedoes. It will also have facilities for an on-board helicopter.

This ship will have the capability to operate offensively in the presence of air, surface or subsurface threats independently or with nuclear or conventional strike forces, and to provide protection to those forces and other naval forces or convoys against air, surface, or subsurface threats.

The budget request included $14.6 million for advance procurement to support the construction of an additional nuclear guided missile frigate (DLGN-38) in fiscal year 1973. However, on May 5, 1971 the Deputy Secretary of Defense advised the Committee of a decision to build only three of these ships at this time. The Secretary stated:

"We are about to negotiate a multi-ship contract for the construction of DLGN-38 class frigates. Before negotiations can proceed, a decision is needed on how many ships the contract should cover. The Navy proposed two alternative programs for the construction of nuclear frigates for the FY 70-74 time frame. One alternative included three ships, the DLGN-38 class vessels funded in FY 70 and FY 71 and requested in the FY 72 Budget. The second alternative was a five-ship program which included two additional DLGN-38 ships to be started in FY 73 and FY 74.

"After reviewing the two options carefully and discussing them at length with the Secretary of the Navy and the Chief of Naval Operations, I have approved the recommendations of the Secretary of the Navy that we proceed with the three-ship program. My reasons were similar to many of the considerations in my decision to postpone construction of an additional nuclear powered carrier. The very substantial overall cost of these ships, limitations on funds available for Defense, and other high priority needs, led me to conclude that we should only plan to build three nuclear frigates at this time.

"This decision was also influenced by the significant increase in the cost of the DLGN-38 over earlier estimates. These cost considerations, coupled with the expected strong pressures on Defense spending over the next few years, made me especially concerned over being committed to a multi-year contract for ships beyond those already funded or proposed to the Congress."

On October 28, 1971 the Deputy of Defense further advised the committee as follows:

"Our current planning does not include funding for a nuclear-powered guided missile frigate (DLGN) in the FY 1973 program. Therefore there is no longer a requirement for the $14,575,000 requested for advance procurement in the FY 1972 budget."

In view of the decision not to proceed with the construction of the fourth DLGN-38 frigate in fiscal year 1973 the committee recommends concurrence in the House disallowance of the $14.6 million requested for advance procurement for this fourth ship.

This program is discussed on pages 1312-1320 of part 3 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Mr. ELLENDER. This recommendations of the committee include $763.1 million for the continuation of the Polaris-to-Poseidon submarine conversion program. The total includes funds for the conversion of six of these submarines. The current plan calls for the conversion of 31 of the 41 Polaris submarines to the Poseidon configuration. Through fiscal year 1971, 14 of these conversions have been funded.

The Polaris-to-Poseidon conversion program is discussed on pages 25 and 26 of the committee's report. I ask to have exhibit M, which I am sending to the desk, included in the RECORD.

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

POLARIS-TO-POSEIDON CONVERSION PROGRAM

The recommendations of the committee include $763.1 million for the continuation of the conversion of Polaris submarines to carry the Poseidon missile. These funds are for the folowing purposes:

	Millions
Conversion of 6 submarines (total estimated cost, $387.2 million, less advance procurement of $121.8 million)	[1] $265.4
Advance procurement to support the planned fiscal 1973 conversion program	[1] 123.0
Advance procurement to support the planned fiscal 1974 conversion program	[1] 13.0
Outfitting material and post-delivery costs	[1] 7.0
Procurement of Poseidon missiles	[2] 348.9
Poseidon initial spares	[2] 5.8
Total	763.1

[1] Included in the appropriation entitled, "Shipbuilding and conversion, Navy."

[2] Included in the appropriation entitled, "Procurement of aircraft and missiles, Navy."

The current program calls for the conversion of 31 of the 41 Polaris submarines to carry the Poseidon missile. The Poseidon is a two stage solid propellant missile with improved accuracy, and with a larger payload than the Polaris missile. The Poseidon is equipped with multiple independent re-entry vehicles (MIRV's). Through fiscal year 1971, 14 of these conversions have been funded.

In addition to the funds referred to above, the committee's recommendation for the appropriation entitled, "Research, Development, Test, and Evaluation, Navy" includes substantial funds for the continuation of the development and testing of the fleet ballistic missile system, fleet ballistic missile defense, and fleet ballistic missile command and control.

The Polaris-to-Poseidon conversion program is discussed on pages 1296-1303 of part 3 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Mr. ELLENDER. Mr. President, that covers some of the more important Navy procurement items. Of course, Senators will be able to read the detail on this procurement in the report.

For the Department of the Air Force, the recommendation of the committee includes $22,177,812,000. $13.3 billion of that sum is recommended for military and reserve personnel and operation and maintenance. This will support an Air Force with an end strength of about 750,000, an Air Force Reserve with a paid drill strength of about 50,000, and an Air National Guard with a paid drill strength of about 89,000.

The Air Force will have an active aircraft inventory of about 11,900 aircraft and will have 1,054 operational ICBM missiles.

A little over $6 billion is recommended for the various Air Force procurement programs. These programs are discussed in detail on pages 147 and 163 of the report.

In addition, $2,845,944,000 is recommended for the research, development, test and evaluation programs of the Air Force. These programs are discussed on pages 186-196 of the committee's report.

The recommendations of the committee include funds for a number of Air Force programs of general interest.

The committee recommends $485.7 million for the F-111 aircraft. Of this amount $112 million is recommended for procurement of 12 additional F-111F aircraft, as requested in the budget estimates of July 30. An additional amount, aggregating $349.2 million, is recommended for overtarget and unfunded deficiencies for aircraft funded in prior fiscal years. Including the sum recommended, the Congress has now provided a total of $975.5 million for these overtarget costs for all versions of the Air Force is F-111 and for the FB-111 aircraft. The F-111 program is discussed on pages 26 and 27 of the committee report.

I ask unanimous consent to place in the RECORD at this point exhibit N, which describes this matter.

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

F-111 AIRCRAFT

The recommendations of the Committee include $485.7 million for the Air Force's F-111 and FB-111 aircraft programs. These funds are provided for the following purposes:

Procurement of F-111F tactical aircraft—$112 million is recommended for the procurement of 12 F-111F tactical aircraft. These funds were requested in an amendment to the budget submitted to the Congress on July 30, 1971 (H. Doc. 92-150). The committee desires to make it clear that it expects the Air Force to obtain these 12 aircraft at a total cost not in excess of $112 million recommended.

The F-111F is the latest model in a series of swing-wing F-111 tactical aircraft. Like its F-111D predecessor, it will have the capability to operate from bases at extended range from its targets, to penetrate sophisticated defenses and to carry out attacks at night and in all types of weather. The F model differs from the F-111D only in its engine and its avionics system. It is equipped with the new P-100 engine, which provides a 25 percent increase in thrust over the older model. Its avionics package is expected to be less costly than the Mark II system used in the D model, but will retain similar navigation capabilities and comparable air-to-ground attack performance against fixed targets. The F-111F is manufactured by the General Dynamics Corporation, Ft. Worth, Texas, and the engines are manufactured by the Pratt and Whitney Division of United Aircraft, East Hartford, Conn.

F-111 and FB-111 aircraft overtarget costs and unfunded deficiencies.—$349.2 million is recommended for F-111 and FB-111 overtarget costs and unfunded deficiencies. Of this total, $183.8 million was requested in a budget amendment submitted July 30, 1971 (H. Doc. 92-150). Simply stated, overtarget costs and unfunded deficiencies are the difference between the estimated contract costs

(on which appropriations are based) and the actual contract costs. Through fiscal year 1971 a total of $626.3 million has been provided for these overtarget costs and unfunded deficiencies. (This sum includes a recently approved fiscal year 1971 reprogramming of $190.4 million.)

Including the $349.2 million recommended in this bill, a total of $975.5 million has been provided for these overtarget costs and unfunded deficiencies. The Committee does not expect to consider any future requests for funds for these overtarget costs and unfunded deficiencies.

Initial aircraft spares and repair parts.—$5.3 million is recommended for the procurement of initial aircraft spares and repair parts for the support of F–111F aircraft.

Research and development.—$19.2 million is recommended for the continuation of the F–111 Category I and II testing programs. The current total estimated cost of the F–111 research, development, and testing program is $1,641.5 million. Through fiscal year 1971 a total of $1,616.1 million has been made available for this program.

In addition to the above referred-to funds the Committee's recommendation for the aircraft modification program includes approximately $43.8 million for the modification of F–111 tactical aircraft and approximately $29 million for the modification of FB–111 strategic bomber aircraft.

The F–111 program is discussed on pages 502–514 and 697–700 of part 4 and pages 985–998, 1003 and 1074 of part 1 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Mr. ELLENDER. The committee also recommends $321.5 million for the C–5A strategic transport aircraft. The recommended program is the same as the program approved by the Senate in the authorization Act. The funds recommended are subject to the restrictions and limitations imposed in section 504(a) of the authorization Act.

The recommended funds do not provide for the procurement of any additional aircraft. $299.1 million is required to cover funding deficiencies for the 76 production aircraft funded in prior fiscal years. It is now estimated that the C–5A program, which includes five test aircraft and 76 production aircraft, will cost $4,552.7 million, which includes $3,095.5 million for the 76 production aircraft, $1,029.2 million for research and development, and $428 million for initial spares and repair parts.

The C–5A program is discussed on pages 28 and 29 of the committee report. I am sending to the desk exhibit O which I ask to have included in the RECORD.

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

C–5A STRATEGIC TRANSPORT AIRCRAFT

The recommendations of the committee include $321.5 million for the C–5A strategic transport aircraft program. The C–5A is the largest aircraft ever built and has a basic mission payload of 100,000 pounds for a 5,560 nautical mile mission, a maximum speed of 470 knots, a ceiling of 43,500 feet and a ferry range of 7,200 miles. The current plan calls for the procurement of 81 of these aircraft, including the 5 test aircraft.

The funds recommended are for the following purposes:

Prior year unfunded deficiencies.—$299.1 million is recommended to cover funding deficiencies in the 76 production aircraft funded in prior fiscal yars.

Research and development.—$22.4 million is recommended for the completion of the planned C–5A resarch and development program. The current total estimated cost of the C–5A research and development program is $1,029.2 million. Through fiscal year 1971 $1,003.2 million has been made available for this program.

The committee's recommendations are in accord with the provisions of the Department of Defense Procurement and Research and Development Authorization Act, 1972 (H.R. 8687, Public Law 92–56), and the funds recommended are subject to the provisions of Sec. 504 of that Act which reads as follows:

"SEC. 504. (a) The amount of $325,100,000 authorized to be appropriated by this Act for the development and procurement of the C–5A aircraft may be expended only for the reasonable and allocable direct and indirect costs incurred by the prime contractor under a contract entered into with the United States to carry out the C–5A aircraft program. No part of such amount may be used for—

"(1) direct costs of any other contract or activity of the prime contractors;

"(2) profit on any materials, supplies, or services which are sold or transferred between any division, subsidiary, or affiliate of the prime contractor under the common control of the prime contractor and such division, subsidiary, or affiliate;

"(3) bid and proposal costs, independent research and development costs, and the cost of other similar unsponsored technical effort; and

"(4) depreciation and amortization costs on property, plant, or equipment.

Any of the costs referred to in the preceding sentence which would otherwise be allocable to any work funded by such $325,100,000 may not be allocated to other portions of the C–5A aircraft contract or to any other contract with the United States, but payments to C–5A aircraft subcontractors shall not be subject to the restriction referred to in such sentence.

"(b) Any payments from such $325,100,000 shall be made to the prime contractor through a special bank account from which such contractor may withdraw funds only after a request containing a detailed justification of the amount requested has been submitted to and approved by the contracting officer for the United States. All payments made from such special bank account shall be audited by the Defense Contract Audit Agency of the Department of Defense and, on a quarterly basis, by the General Accounting Office. The Comptroller General shall submit to the Congress not more than thirty days after the close of each quarter a report on the audit for such quarter performed by the General Accounting Office pursuant to this subsection.

"(c) The restrictions and controls provided for in this section with respect to the $325,100,000 referred to in subsections (a) and (b) of this section shall be in addition to such other restrictions and controls as may be prescribed by the Secretary of Defense or the Secretary of the Air Force."

The C–5A program is discussed on pages 526–535 and 701–702 of part 4 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Mr. ELLENDER. The committee recommends $414.5 million for the Air Force's F–15 air superiority fighter. These funds will provide continuation of the development program for this fighter aircraft which will total $1.7 billion. Twenty test aircraft will be produced and tested in this program with an end toward developing a superior fighter aircraft.

Mr. President, there is another large item that was discussed by the committee, and that concerned the B–1 bomber. The amount we recommended for the B–1 bomber is $370.3 million. That amount is to continue the development program which includes three flight test aircraft and one structural fatigue test airframe. The current estimated cost of the development program is $2.6 billion. That, I want to make plain, is merely to build the prototype. In other words, it is to pay for research in that field. There is nothing in the bill indicating that any moneys are to be used to produce any of these bombers.

It is my position that no obligation would be made by the Government to go into procurement of the B–1's unless and until they are thoroughly tried and thoroughly researched, so that we will not find ourselves in the same situation as we were in other large contracts of this character.

The committee recommends $1,010.1 million for the continuation of the Minuteman missile force. Of this total, $443.2 million is for the procurement of Minuteman II and Minuteman III missiles to replace old Minuteman I missiles. The committee's recommendation is based on an ultimate force of 450 Minuteman II's and 550 Minuteman III's, which are equipped with the multiple independently armed reentry vehicle (MIRV's). This program is discussed on pages 30 and 31 of the committee report.

Mr. President, this matter is discussed in exhibit 1, and I ask unanimous consent that the exhibit be placed in the RECORD at this point.

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

MINUTEMAN MISSILE PROGRAM

The recommendations of the committee include $1,010.1 million for the Minuteman II and III ICBM program. The Minuteman is a three stage solid propellant intercontinental ballistic missile which is deployed in hardened and dispersed silos. Its mission is the destruction of those strategic targets designated by the national strategic target list. Minuteman II carries one re-entry vehicle and has the capability to carry penetration aids to penetrate enemy defenses. The Minuteman III has an improved capability provided by a post-boost propulsion control system for the deployment of multiple Mark-12 reentry vehicles (MIRVs). The current program calls for an ultimate force of 450 Minuteman IIs and 550 Minuteman IIIs.

The total recommended is for the following purposes:

Minuteman II and III missile procurement.—$443.2 million is recommended for the procurement of Minuteman II and III missiles. The sum recommended and $28.5 million advance procurement provided in fiscal year 1971 will provide a total of $471.7 million for the fiscal year 1972 missile procurement program.

Advance procurement.—$34.2 million is recommended for advance procurement to support the planned fiscal year 1973 missile procurement program.

Minuteman force modernization.—$270.5 million is recommended for the Minuteman force modernization program. This program includes the basic force modernization program which involves modifying launch control facilities to accept the Minuteman IIs and IIIs; the upgrade silo program, which involves the providing of increased prelaunch survivability; and the command data buffer program.

Initial spares and repair parts.—$16.4 million is recommended for the procurement of

initial spares and repair parts to support the Minuteman missiles.

Minuteman modifications.—$64.2 million is recommended for the continuation of the Minuteman update program. This program involves the incorporation of post delivery configuration management deficiencies revealed during operational use and various test programs.

Research and development.—$181.6 million is recommended for the continuation of the Minuteman development and testing program.

The Minuteman program is discussed on pages 568–577, 595–596, and 740–743 of part 4 and pages 96 and 993 of part 1 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Mr. ELLENDER. The committee has not recommended any additional funds for the advanced development prototype program proposed by the Department of Defense. However, it has authorized the use of $34 million of the funds made available in the various R.D.T. & E. appropriations for this purpose. I shall explain the reasoning behind this:

The budget does not include any funds for the prototype program. The Department proposed a prototype program, and informally submitted to Congress a request for $67.5 million for the program, as follows: Army, $23.5 million; Navy, $20 million; and Air Force, $24 million.

The Authorization Act includes $34 million for the prototype program as follows: Army, $12 million; Navy, $10 million; and Air Force, $12 million.

The House allowed $12 million for the Air Force's prototype program and stated that $6 million was for the light weight fighter and $6 million was for the medium STOL transport aircraft.

The committee has not recommended any funds for the program, but it has authorized the use of funds provided for research and development for the program as follows: Army, $12 million; Navy, $10 million; and Air Force, $12 million.

The prototype program is discussed on pages 13 and 14 of the committee's report. I ask unanimous consent that exhibit Q be included in the RECORD.

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

ADVANCED DEVELOPMENT PROTOTYPE PROGRAM

After the submission of the President's Budget for fiscal year 1972 the Department of Defense proposed a new research and development program, the objective of which was to emphasize the construction of hardware prototypes early in the development stage of weapons systems. In describing the proposed program, a representative of the Department of Defense stated:

"The prototype program will provide for competition in real performance and actual hardware and it will require the competing teams to demonstrate the superiority of their product, rather than the superiority of their salesmanship."

The Department of Defense Procurement and Research and Development Authorization Act, 1972 includes an authorization of $34,000,000 for this program as follows: Army, $12,000,000; Navy, $10,000,000; and Air Force, $12,000,000. However, these funds are not included in the pending budget requests.

The committee encourages the construction of prototypes in the development of weapons systems, especially engineering prototypes on which production decisions may be based. In reviewing the program proposed by the Department of Defense, the Committee was concerned that the emphasis was placed on advanced development prototypes rather than engineering prototypes. In the future the Committee urges the Department of Defense to adopt the engineering prototype concept in the development of more weapons systems, as in the case of the Air Force's A–X close air support aircraft, the new Army tank program for which funds are recommended in this bill. The Committee concurs in the view of the House committee that the Air Force's program for the development of the Subsonic Cruise Armed Decoy (SCAD) should be conducted under a competitive prototype procedure.

The House bill includes $12,000,000 in the appropriation "Research, Development, Test, and Evaluation, Air Force" for the prototype program, and these funds are provided specifically for the lightweight fighter program and the medium STOL aircraft program. The committee has recommended the disallowance of this $12,000,000 because of the lack of a formal budget request. However, the Committee authorizes the use of funds provided for the fiscal year 1972 research and development programs for the prototype program as follows: Army, $12,000,000; Navy, $10,000,000; and Air Force, $12,000,000.

Mr. ELLENDER. I now wish to discuss the support of free world forces. As all of us know, we have been carrying quite a load for quite some time in order to maintain and assist our friends across the sea. As has been pointed out on many occasions before the Senate, we have spent literally billions of dollars in the support of the free world, and this has been going on now for many, many years. We have spent far in excess of $138 billion assisting our friends, and we are still spending a great deal of money all over the world, in Taiwan—that is, Formosa—the Philippines, Spain, Western Europe, and elsewhere. The amounts cannot be well separated to indicate how much we are spending in each of these areas, but an estimate was made several months ago indicating that we are now spending, for Western Europe, the Mediterranean, and Spain, assisting our allies in the neighborhood of $14 billion.

I regret, as I have indicated on many occasions on this floor, that we have been carrying so much of a load in order to assist our allies, particularly in western Europe. These allies are well able to do more than they are now performing in their own defense. Ever since I have been a member of the Armed Services Subcommittee of the Appropriations Committee, I have requested information from every Secretary of Defense as to what they would do about forcing our allies to supply us with more troops, more money to pay our own troops, and more money for hardware procurement.

The record will show, Mr. President, that all I was able to obtain from these Secretaries was, "We'll do our best. We'll try our best."

Last year, members of this administration had a conference with the heads of the different allied governments, and they agreed with what they thought was quite a help. They got our allies in western Europe to agree to provide not quite a billion dollars over a period of 5 years.

Mr. President, to me that is insignificant, because all of the money that these allies are providing is to pay for the construction of facilities on their own soil. Notwithstanding the fact, Mr. President, that we were driven out of France by De Gaulle, we are still assisting in an amount of about 25 percent to 27.5 percent in the cost of building and construction on the soil of the rest of our allies in Western Europe. Aside from all that, Mr. President, we have spent hundreds of millions of dollars in Spain in order to protect ourselves and our allies in Western Europe. We did not go to them and say. "You put up so much to pay for the airports" we did it ourselves. We have three there. We also have one on the Azores. We have a huge port at Cadiz. All of that was constructed with not one red cent paid by any of our allies.

Moreover, Mr. President, we are being called upon to put up more funds in order to provide for the infrastructure programs that are proposed to be built—in part at least because we have been forced to leave France. I thought I would mention that, Mr. President, because I have been traveling in Europe for more than 20 years, and what I am speaking of now, I know from personal knowledge.

I have tried to give good advice as to what ought to be done, but somehow my advice is rarely followed. Some time ago my good friend, the Senator from South Dakota (Mr. MCGOVERN), placed in the RECORD a résumé of some of my reports on my travels abroad, particularly several of them that pertained to Southeast Asia, beginning in 1954, 1955, and 1966.

Those reports show Mr. President, that if the senior Senator from Louisiana had been listened to, we would not be in Southeast Asia today. But no, the Department of Defense and the State Department were holding the reins, and we have been finding ourselves, now, for the past 20 years at least in trouble practically all over the world. Something should be done to stop all this. I am very hopeful that this year and next year will be the turning point in that direction.

For the support of free world forces, we have in this bill a recommendation of $2,303,600,000. This includes $1,909.1 million for the South Vietnamese forces, $138.5 million for the support of local forces in Laos, $68.1 million for local forces in Thailand, and $195.9 million for Korean forces in South Vietnam.

The use of funds appropriated by the U.S. Armed Forces for the support of the military forces of these countries is authorized in section 501 of the Department of Defense Procurement and Research and Development Act. This program is described on page 11 of the committee report, as shown in exhibit R, which I ask unanimous consent to have printed at this point in the RECORD.

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

SUPPORT OF FREE WORLD FORCES

Section 738 of the bill authorizes the use of appropriations available to the Department of Defense to support Vietnamese and other free world forces in support of the Vietnamese forces and for the support of local forces in Laos and Thailand and for related costs. The recommendations of the Committee include $2,303.6 million for these purposes for the following countries: South

Vietnam, $1,901.1 million; Korea, $195.9 million; Laos, $138.5 million; and Thailand, $68.1 million.

The recommended amount for these purposes in each appropriation is set out under the appropriate heading in this report.

The funds recommended for these purposes are provided pursuant to and in accord with section 501 of the Department of Defense Procurement and Research Authorization Act, 1972 (Public Law No. 92–), which reads as follows:

"SEC. 501. Subsection (a)(1) of section 401 of Public Law 89-367, approved March 15, 1966 (80 Stat. 47), as amended, is hereby amended to read as follows.

"(a)(1) Not to exceed $2,500,000,000 of the funds authorized for appropriation for the use of the Armed Forces of the United States under this or any other Act are authorized to be made available for their stated purposes to support: (A) Vietnamese and other free world forces in support of Vietnamese forces, (B) local forces in Laos and Thailand; and for related costs, during the fiscal year 1972 on such terms and conditions as the Secretary of Defense may determine. None of the funds appropriated to or for the use of the Armed Forces of the United States may be used for the purpose of paying any overseas allowance, per diem allowance, or any other addition to the regular base pay of any person serving with the free world forces in South Vietnam if the amount of such payment would be greater than the amount of special pay authorized to be paid, for an equivalent period of service, to members of the Armed Forces of the United States (under section 310 of title 37, United States Code) serving in Vietnam or in any other hostile fire area, except for continuation of payments of such additions to regular base pay provided in agreements executed prior to July 1, 1970. Nothing in clause (A) of the first sentence of this paragraph shall be contrued as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos: Provided, That nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of United States Forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war."

Mr. ELLENDER. Mr. President, I wish to point out that the committee is not attempting to reduce defense expenditures so much as the amount of new money to operate the Defense Department.

The budget requested general transfer authority in the amount of $1 billion. The House reduced this authority to $600 million, the amount provided for fiscal year 1971. What we are doing here is increasing the amount that can be transferred from one account to another from $600 million to $900 million, in the hope that we can use this transfer authority to reduce the new obligational authority requested. These funds are subject to the reprograming procedure established between the Department of Defense and the concerned committees. This expanded transfer authority is not to be used for the initiation of the development and/or the production of new weapons systems. Ever since I have been chairman of this committee—and even long before that, while I was serving with the late Senator Russell as well as Senator Hayden—I have watched what the Defense Department did in regard to reprograming. Often, the Defense Department asked for funds to build, let us say, two or three ships. They learned later that they did not need those ships, so they took the money that was going to be spent to construct these ships and requested reprograming approval in order to fund a different program.

So far as I am concerned, as chairman of the committee, I believe that from here on, with programs of that kind, the committee as a whole must know about them, before we embark upon the actual construction. We must have a budget estimate from the President. In that way, I think we will be better off. When it comes to the construction of, let us say, an aircraft carrier that will cost, after being equipped, as much as $1 billion. A program of that kind should be asked for and budgeted by the President. I am very hopeful that in the future this will be done.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD exhibit S, from the committee report.

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

SECTION 736: TRANSFER AUTHORITY

The budget proposed a general transfer authority between appropriations in this Act of not to exceed $1,000,000,000, and the House bill provides for $600,000,000. The committee recommends transfer authority of $900,000,000, and an expansion of the authority to cover all appropriations and funds available to the Department of Defense exclusive of appropriations for military construction. All transfers pursuant to this provision are subject to prior approval under the existing reprogramming procedures.

The committee's objective in recommending the increase in the amount of the transfer authority and expansion to cover other appropriations and funds is to give the Secretary of Defense the flexibility that is required to meet numerous mandatory increases in various programs, such as increase in the CHAMPUS (civilians health and medical program, uniformed services) program, for permanent change of station travel resulting from turbulence in the military personnel programs, increases required for the transportation of equipment resulting from rate increases, and to the extent possible increases required for military and civilian pay increases. It is not the intent of the committee that this expanded authority be used to initiate the development and procurement of weapons systems.

Mr. ELLENDER. Mr. President, there is an item on which I expect that there will be an amendment, and it is with regard to a set-aside for commercial air transportation services. I am not going to spend any time on it, because it will be discussed thoroughly, I understand, as an expected amendment.

Mr. President, there is another amendment that will have to be considered. I understand that the Senator from Mississippi (Mr. STENNIS) probably will offer an amendment to strike the reduction in troops amendment. The committee recommended the inclusion of this provision, the intent of which is to reduce the number of U.S. military personnel in Europe to 250,000 by June 15, 1972. The provision reads as follows:

SEC. 744. After June 15, 1972, no part of the funds appropriated in this Act shall be available for the support of U.S. military personnel in Europe in excess of 250,000.

During the course of the hearings, the committee was advised that there were 294,000 U.S. military personnel stationed in Europe. However, the Department of Defense now states there are 310,000 U.S. troops in Europe, as follows: 195,000—Army; 70,000—Air Force; 45,000—Navy and Marines, including 29,000 with the 5th Fleet in the Mediterranean.

Mr. President, I am not going to discuss that feature of the bill in detail because, as I understand it, an amendment will be offered to strike it. There will be ample opportunity to discuss the program in full.

Mr. President, I am very happy that I have been able to present this bill to the Senate. The hearings, as I said, were completed in June of last year. I hope that with all the information I have presented to the Senate with the excerpts from the report, it will become easier reading for anyone who wants to follow all the actions taken by us before the committee.

Mr. President, if there are any questions, I shall be very glad to answer them, and, if not, I yield the floor to the distinguished Senator from North Dakota (Mr. YOUNG).

Mr. YOUNG. Mr. President, I wish to commend the distinguished chairman of the Senate Appropriations Committee for his statement. Our friend, Senator ELLENDER, has long been considered by Members of the Senate as one who believes in the strictest kind of economy. He worked long and hard to cut this budget in every way he could, without impairing the defense needs of this Nation.

The appropriations bill we are now considering would provide $70.2 billion for defense. It is $806 million below the amount approved by the House and $3.3 billion below the President's 1972 budget estimates. It is one of the largest cuts that has been made in a defense budget request in our history.

This is still a big budget and I would like to see it reduced much further but, at the present time, I believe this is impossible. While the war in Vietnam is winding down and our military forces there are less than one-half what they were at the peak, we still have a sizable fixed cost in this Southeast Asian war.

There are many other fixed costs that there is little we can do about at the present time. One, for example, is the cost of our military personnel. Even though the personnel in our Defense Department has been reduced by 1,300,000 in the past 2 years, the overall cost of personnel is approximately the same as it was in 1964. This is largely because of salary increases.

Congress has raised military and civilian pay nine times since 1964. As a result, it would cost $15.3 billion more for pay and allowances to employ the same number as were on the rolls of the Defense Department in 1964.

Average active duty military pay rates are 83.3 percent higher this year than in 1964, and the average government civilian salary has increased by 58.7 percent. The total cost for manpower and manpower related costs in the Defense Department is still $39.2 billion, even though personnel has been reduced by 1,300,000

in the past 2 years. Personnel costs are approximately 65 percent of the total amount of this bill.

There are many other large military fixed costs which cannot be reduced immediately or during the balance of the fiscal year for which this appropriation is being made.

For example, we have fixed military obligations in many places in the world. One of the larger costs is for the 300,000 troops we have stationed in Germany. We have sizable military bases in Thailand, the Philippines, Okinawa, Japan, Great Britain, and other foreign nations. We still have a great many bases in almost every State of the Union. Many military bases have been closed and I believe still more should be closed.

There are also fixed costs for things such as operation and maintenance which would include, among other things, requirements for diesel fuel, kerosene, gasoline, and other petroleum products, the prices of which have gone up rather than down.

Aside from the pay area and fixed costs, inflation has added approximately $9 billion to the defense budget since 1964 for weapons and equipment and supplies procured by the Armed Forces.

Mr. President, when we deduct all the fixed costs from this total budget of $70.2 billion, there is little more than $15 billion in this budget where cuts could be applied. Thus, the nearly $3.3 billion cut by the House and Senate is a sizable percentage of the budget that actually can be cut.

I believe that even with this sharply decreased budget, we are still providing for most of our top priority requirements in the area of new planes, ships and various other new modern equipment. Unquestionably, if this Nation were financially able to make available more funds for defense we could be developing even more modern military equipment.

Mr. President, we cannot afford to be unconcerned about our overall military posture when Russia is steadily increasing her budget to provide more modern weapons systems.

They already are superior to us in many categories of military strength. We cannot expect to maintain an Army as powerful as Russia's, but we must continue to at least keep apace of Russia in the development of new modern, more sophisticated and effective military weapons systems.

The Russians today are producing high-performance aircraft, such as the Foxbat. It flies higher and faster than any fighter plane we have today. Russia's navy shipbuilding program is steadily increasing in total numbers. Russian nuclear submarine construction each year is far beyond that of the United States. Almost their entire big navy is new and modern while much of ours is old and becoming obsolete.

We have but one new high-performance aircraft coming into production next year—the F–14. Our most modern aircraft, the F–4, was designed way back in 1953.

In the area of intercontinental ballistic missiles, the most powerful, destructive force in the world today, Russia has greatly increased their strength. They have more ICBM's than we have. They have some such as the SS–9 which is bigger and more powerful than anything we have. We should with our more sophisticated ICBM's be at least equal to Russia in this highly important area.

This budget does provide for some research and development for other highly important weapons systems. There is money in this bill to continue the research and development of the new B–1 bomber.

Mr. President, there are many other areas of defense that could and should be covered, but I believe the distinguished chairman of our committee (Mr. ELLENDER) has covered most of them in his statement. He has provided by his detailed information some excellent information.

I have long felt that we overcommitted ourselves in the world far beyond our capability, both militarily and economically. The new Nixon policy of not trying to police the whole world is going a long way toward correcting this. This program, if continued, will reduce our overall military forces and costs.

Mr. President, I have always felt that whatever military force we have should have the most modern military equipment possible. I do not believe that our own national security and well-being could ever permit us to become a second-rate military power to Russia or any other country.

In the long months of hearings and work that went into this Defense appropriation bill, we were fortunate to have some exceptionally able and experienced staff members. I have only the highest commendation for the staff of this committee, headed by Bill Woodruff and the minority counsel, Ed Hartung, Fran Hewitt, and Farrell Egge.

Mr. President, I hope that the defense budget, as recommended by the Senate Appropriations Committee after long and careful consideration, will be approved and without any major changes.

Mr. ELLENDER. Mr. President, I ask unanimous consent that the committee amendments, with the exception of section 744 dealing with the withdrawal of troops from Europe, which appears on pages 48 and 49 of the bill, be agreed to en bloc and that the bill as thus amended be considered as original test for the purpose of further amendment, provided that no points of order be considered as waived.

The PRESIDING OFFICER. Is there objection?

Mr. ALLOTT. Mr. President, reserving the right to object, I would like to inquire if the committee excepted the Mansfield amendment. I did not quite hear him.

Mr. ELLENDER. I did.

Mr. MANSFIELD. Mr. President, reserving the right to object, how does the Senator spell that—e-x-c-e-p-t or a-c-c-e-p-t? I hope it is the latter.

Mr. ELLENDER. The Senate will decide that later.

Mr. MANSFIELD. How is it spelled?

Mr. ELLENDER. Accept.

Mr. ALLOTT. Mr. President, if that is the situation, I shall object. I do not know whether we are being facetious or not. However, I thought the Mansfield amendment was excepted.

Mr. ELLENDER. The Senator is correct. I was just joshing.

Mr. MANSFIELD. I was not being facetious. I am serious about this, and I hope that the Senate will be serious, too.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 10, after the word "elsewhere", strike out "$7,315,637,000" and insert "$7,319,837,000".

On page 2, line 18, after the word "cadets", strike out "$4,555,071,000" and insert "$4,562,071,000".

On page 4, line 18, after the word "law", strike out "$102,616,000" and insert "$101,716,000".

On page 6, at the beginning of line 19, strike out "$6,735,662,000" and insert "$6,598,012,000".

On page 8, at the beginning of line 1, strike out "$5,039,040,000" and insert "$5,021,240,000".

On page 8, line 16, after the word "salaries", strike out "$360,553,000" and insert "$360,077,000".

On page 9, line 19, after the word "Government", strike out "$6,274,381,000" and insert "$6,211,323,000".

On page 10, line 18, after the word "Government", strike out "$1,197,465,000" and insert "$1,208,565,000".

On page 11, line 12, after the word "aircraft", strike out "$369,961,000" and insert "$365,961,000".

On page 12, line 9, after the word "Bureau", strike out "$413,428,000" and insert "$402,328,000".

On page 12, line 20, after the word "Board", strike out "$122,000" and insert "$106,000".

On page 14, line 10, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 14, line 24, after the word "purposes", strike out "$1,040,820,000" and insert "$940,820,000, and in addition, $100,000,000 which shall be derived by transfer from 'Procurement of Equipment and Missiles, Army, 1971/1973' "; and, on page 15, line 2, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 15, line 18, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 16, line 7, after the word "purposes", strike out "$1,496,300,000" and insert "$1,418,300,000"; and, in line 10, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 17, line 3, after the word "purposes", strike out "$527,400,000" and insert "$507,300,000"; and, in line 4, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 17, line 16, after the word "plants", strike out "$3,905,000,000" and insert "$3,855,000,000"; at the beginning of line 17, strike out "$50,000,000" and insert "$100,000,000"; at the beginning of line 19, strike out "$25,000,000" and insert "$75,000,000"; and, in line 21, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 18, line 9, after the word "amended", strike out "$3,017,500,000" and insert "$2,926,200,000, and in addition $5,000,000 to be derived by transfer from 'Shipbuilding and Conversion, Navy 1971–75',"; and, in line 12, after the word "available", strike out "for obligation until June 30, 1976" and insert "until expended".

On page 19, line 9, after the word "plants", strike out "$1,702,803,000" and insert "$1,637,803,000"; in line 10, after the word "addition", strike out "$50,000,000" and insert "$110,000,000"; in line 12, after the word "and", strike out "$25,000,000" and insert "$85,000,000"; and, in line 14, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended."

On page 19, line 24, after the word "only"; strike out "$118,100,000" and, insert "$103,100,000"; in the same line, after the word "addition", strike out "$10,000,000" and insert "$25,000,000"; and, on page 20, line 3, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 20, line 18, after the word "things", strike out "$2,933,800,000" and insert "$2,899,000,000"; in line 19, after the word "addition", strike out "$108,700,000" and insert "$158,700,000"; in line 22, after the word "and", strike out "$25,000,000" and insert "$75,000,000"; and, in line 24, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 21, line 14, after the word "things", strike out "$1,633,700,000" and insert "$1,633,600,000" and, in line 19, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 22, line 11, after the word "amended", strike out "$1,510,998,000" and insert "$1,478,998,000"; at the beginning of line 12, strike out "$50,000,000" and insert "$90,000,000"; and, in line 14, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 23, line 3, after the word "amended", strike out "$62,971,000" and insert "$52,971,000, and in addition, $5,000,000 to be derived by transfer from 'Procurement, Defense Agencies, 1971/1973,"; and, at the beginning of line 6, strike out "for obligation until June 30, 1974" and insert "until expended".

On page 23, line 14, after the word "law", strike out "$1,769,656,000" and insert "$1,795,656,000"; in line 15 after the word "addition", strike out "$25,000,000" and insert "$51,900,000"; and, in line 17, after "1971/1972", insert a comma and "of which not to exceed $9,300,000 shall be available for the continuation of the development of the AH–56A Cheyenne armed helicopter,".

On page 23, line 26, after the word "law", strike out "$2,358,319,000" and insert "$2,281,319,000".

On page 24, line 10, after the word "law", strike out "$2,892,944,000" and insert "$2,845,944,000".

On page 24, line 24, after the word "law", strike out "$440,843,000" and insert "$437,143,000".

On page 30, line 9, after the word "amended", strike out the semicolon and "(1) under regulations approved by the Secretary of Defense, for transportation from their homes to rest and recuperation centers in the Pacific area and return plus per diem payments of not to exceed $30 per day for each dependent for periods not over two weeks, for dependents of military personnel assigned as province or district senior advisers in Vietnam on voluntarily extended tours of duty totaling not less than eighteen months, during periods when such military personnel are granted special incentive leaves at such rest and recuperation center".

On page 36, line 11, after the word "Defense", strike out "which shall not require the performance of proficiency flying but may permit such flying (except in cases of members who have been assigned to a course of instruction of 90 days or more)"; and, after the amendment just above mentioned, insert "Such regulations (1) may not require such flying except where the Secretary of the Department concerned determines that such flying is required to maintain proficiency in anticipation of member's assignment to combat or other essential flight operations and (2) may permit such flying, except that such flying may not be required or permitted in cases of members who have been assigned to a course of instruction of 90 days or more."

On page 43, line 10, after the word "fleet", insert a colon and *"Provided further,* That funds in this Act shall be available for the procurement of commercial air cargo services only to the extent that the Secretary of Defense determines that such services are required to supplement the cargo airlift capabilities of the Military Airlift Command."

On page 44, line 21, after the word "contract", strike out the comma and "or (4) costs of participation in the United States Transportation Exposition".

On page 45, line 3, after the word "of", strike out "$50,000" and insert "$25,000".

On page 45, line 7, after "Sec. 736.", strike out "Upon" and insert "During the current fiscal year upon"; in line 11, after the word "exceed", strike out "$600,000,000" and insert "$900,000,000"; at the beginning of line 12, insert "or funds"; in the same line, after the amendment just above stated, strike out "contained in this Act" and insert "available to the Department of Defense for military functions (except military construction)"; in line 14, after the word "appropriations", insert "or funds"; and, in line 16, after the word "appropriation", insert "or fund".

On page 49, line 8, after "section 401(a)(1)", strike out "H.R. 8687 as passed by the Senate" and insert "Public Law 92–156"; and, after the amendment just above stated, strike out "$93,300,000" and insert "$98,500,000".

On page 49, line 14, after "section 401(a)(2)", strike out "H.R. 8687 as passed by the Senate" and insert "Public Law 92–156".

Mr. INOUYE. Mr. President, in recent months, a great deal of confusion and contradictory information has evolved from the contractor and the Department of Defense and others concerning the F–14 fighter now under development by the Grumman Aircraft Corp. I hope that my contribution to the F–14 debate will not add further to this confusion.

Critics of this aircraft have suggested that it cannot outperform the Soviet Mig series of fighters, and more basically, some have suggested that the F–14 fighter is not a good air superiority fighter.

Because of this criticism, confusion, and contradictory information, I, like many of my colleagues, decided to conduct a special study of the F–14. For example, I have taken a look at the National Aeronautics and Space Agency and Department of Navy assessments of this aircraft, and have been briefed on the latest flight test data by officials of Grumman Aircraft Corp.

Mr. President, in my humble opinion, I wish to suggest that the F–14 aircraft, after more than 2½ years of development, is meeting or exceeding its guaranteed specifications. For example, I have been advised that:

First, the growth in weight of the F–14 since the contract award is the lowest achieved in naval aviation. More specifically, I have been advised that the weight growth is one-fourth of the average of past naval aircraft. I gather that this factor is an extremely important one, when one considers that these airplanes are required to take off and land on aircraft carriers. The weight factor, therefore, becomes an extremely important one.

Second, the performance estimates of the F–14 developed by the Navy have been substantiated by an independent National Aeronautics and Space Agency assessment made at the request of the Department of Defense.

Third, in 1968, the Department of Navy conducted a study of the Soviet threat to determine if the projected performance of a carrier-based fighter—now the F–14A—was sufficient to maintain air superiority through the 1980 time period. This projected performance of the F–14A was validated and proved vastly superior to modified versions of the F–4 aircraft.

Fourth, more recently, the Department of Navy, at the direction of the Department of Defense conducted comparison studies of the F–14 to the current and projected Soviet threats. Results of their study demonstrate that in close-in dog fighting, against mass raids, or high speed, small cruise missiles, the F–14 is the only weapon system presently available that will or can provide air superiority through the 1980 time period.

Fifth, the F–14 fire control system and the Phoenix long-range missile have enjoyed one of the most successful test programs in the history of weapons development. The design and test phases have been closely monitored and participated in by operational people who will eventually use this system. Although not yet employed operationally, Phoenix tests to date demonstrate that all design performance requirements are being satisfied.

Sixth, the F–14 airplanes are now flying successfully and are rapidly verifying the entire predicted flight envelope. For example, in level flight accelerations, the F–14A is exceeding predictions and F–4 chase planes fall behind by significant distances. The F–4 chase airplanes struggle to keep up with the F–14 as they cruise along at high altitude. The F–14A high speed test aircraft easily exceeded twice the speed of sound recently. F–14A's have flown as much as 12½ hours combined flight time in 1 day, a feat never before achieved with early test aircraft. The F–14A has landed at weights equal to or greater than the carrier landing weight with 6 Phoenix missiles on board, at speeds significantly lower than the specifications and 20 m.p.h. slower than the present F–4 airplanes. The F–14 is meeting or exceeding its predicted maneuverability capabilities at dog fighting speeds by as much as 25 percent.

Mr. President, I am convinced that the air inventory of our Navy needs a weapon system such as the F–14, but at the same time, I am aware of the development details that have been associated with the F–14 program, such as the unfortunate crash of the first test aircraft and the development problems of the advanced technology engine for the F–14B and F–15. The problems associated with the F–14 are not unique. One need only consider the C5A and the F–111. At this juncture, it would be well to ask ourselves a few fundamental questions: Do we need this weapon system? My study indicates that the answer is yes. Can our aerospace industry design and construct this weapon system? Again, I feel that

the answer is yes. Has the aerospace industry encountered development problems with new weapon systems? Without question, the answer is yes. Once again, the C5A and the F–111 are presented as striking examples.

Mr. President, if these new weapons and weapon systems are vital and necessary, and if our aerospace industry has demonstrated that it can produce them, can or should the development cycles of these systems be improved? I feel that we should have learned a few lessons from the C–5A and the F–111. One lesson that stands out in my mind is that our Defense Department must be given adequate time for developing new weapons and weapon systems with adequate funding and sufficient technical milestones to indicate whether such new weapons or weapon systems are ready for production or not.

In other words, the concurrency of development and production must be minimized. To put it in better understood lay language, we should "fly before we buy." In the case of the C–5A and the F–111, we unfortunately applied the concept of "buy and fly" instead of the practical "fly before we buy."

Similarly, industry must be given adequate time, also. It should not be unreasonably pressed to a point where its private financing sources dwindle to a point of desperation in order for it to meet unrealistic schedules based on our ill-conceived "buy and fly" contracts—Lockheed should have taught us a lesson. By pushing Grumman, we may end up with another Lockheed-type problem.

Mr. President, the fundamental problems involving development and production must be solved if we are to protect our diminishing and critical resources and get the best buy for our dollar. Mr. President, I will support the Senate Appropriations Committee's recommendation calling for the procurement of 48 F–14A's in fiscal 1972. However, I would hope that, in the consideration of future buys of this new weapon system, the problem of concurrency of development and production be given most serious consideration by the Department and the contractor.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

INDEFINITE POSTPONEMENT OF S. 1698

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the consideration of S. 1698, which is listed on page 15 of the calendar under "Subjects on the Table," be indefinitely postponed because I do not intend to call up this measure.

The bill has to do with providing an additional period of time for review of the basic national rail passenger system; to postpone for 7 months the date on which the National Railroad Passenger Corporation is authorized to contract for provision of intercity rail passenger service; to postpone for 7 months the date on which the Corporation is required to begin providing intercity rail passenger service, and for other purposes.

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

MESSAGES FROM THE PRESIDENT

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

REPORT ON HEALTH PROGRAM OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am pleased to submit to the Congress the first annual report on health matters covered by the Federal Coal Mine Health and Safety Act of 1969.

The report covers the implementation of the health program during its first year of operation under this act. This program has been carried out by the National Institute for Occupational Safety and Health of the Department of Health, Education, and Welfare. The report provides a compendium of health standards, medical specifications, research and public health information activities from December 30, 1969, through December 31, 1970.

Highlighted in this document are the health regulations promulgated under the act, the status of the medical and industrial hygiene research projects, specific health standard recommendations to control and eliminate occupational disease, and proposed research for the future.

It is encouraging to note that as of December 31, 1970, the Department of Health, Education, and Welfare approved 398 coal mine operator plans in which the company is providing an opportunity for confidential medical examinations at no cost to the miner. These plans applied to nearly 76,000 underground miners. Concurrently, 440 physicians sought and obtained certification to participate in the reading of chest roentgenograms. Contracts have also been made by the Public Health Service with medical organizations to provide for chest X-rays of coal miners in seven States at the mines where operators have not submitted such plans, and additional contracts are now being obtained for the remaining 14 States which have underground coal mining operations. A comprehensive research program has been established to develop criteria necessary to set optimal health standards. The Department of Health, Education, and Welfare is moving rapidly to further refine health and safety standards and to assist the Department of the Interior in the implementation of this act.

I commend this report to the attention of the Congress.

RICHARD NIXON.

THE WHITE HOUSE, *November 23, 1971.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. STEVENSON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of Senate proceedings.)

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

The Senate continued with the consideration of the bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

Mr. PROXMIRE. Mr. President, our debate on this bill today brings to an end another year's debate on the size and shape of the military budget. It concludes the third consecutive year in which we have tried very hard to analyze and understand our defense needs both at home and around the world.

But our debate on this bill today also marks a new first. This is the first defense appropriations bill which has been guided through the Senate by a new chairman of the Appropriations Committee, the distinguished Senator from Louisiana (Mr. ELLENDER).

He has done a masterful job, indeed. He has examined in depth the justifications the Pentagon has made for the more than $73.5 billion requested for fiscal 1972. And he has found more than $3 billion which can be deducted from that request with no danger to our national security.

I think I know something about the kinds of pressures my friend from Louisiana faced in recommending so large a cut—the constant arguments against specific cuts, the suggestion that he was undermining our Nation's strength. I do know his response to one such suggestion. That response was "hogwash." It is a very appropriate response, especially since the Senator from Louisiana stands behind not only the $3 billion he has cut, but also the more than $70 billion he has recommended for appropriation.

Mr. President, we in the Senate have a long way yet to go in developing our ability to scrutinize the defense budget. But we have also made some progress in the past 3 years. My friend from Louisiana has played an important role in the process. I commend him highly for the contribution he has made.

The PRESIDING OFFICER. The clerk will report the committee amendment on page 48.

The committee amendment was read as follows:

On page 48, line 16, after the word "in", insert "Titles I through VIII of".

On page 48, after line 19 strike out:

"SEC. 744. None of the funds in this Act shall be available for the induction or enlistment of any individual into the military services under a mandatory quota based on mental categories."

And, in lieu thereof, insert:

"of United States military personnel in Europe in exces of 250,000."

Mr. JACKSON. Mr. President, I ask unanimous consent that when I call up my amendment No. 750 it take precedence over the pending committee amendment.

Mr. ELLENDER. Mr. President, reserving the right to object, I want it understood that the Senator will have the opportunity to present his case, but that no vote will be had on the amendment until the Republican policy committee meeting ends, and I do not know what time that is going to be.

Mr. JACKSON. Mr. President, may I say I shall be very pleased to work out a voting time with the distinguished chairman of the committee and that I shall not ask for a vote at this time.

Mr. ELLENDER. With that understanding, Mr. President, there will be no objection.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Mr. JACKSON. Mr. President, I shall be calling up my amendment No. 750 shortly.

The purpose of the amendment is clear and simple. It calls for an appropriation, pursuant to the authority voted by the Senate last year, to enable the President to make available to Israel on credit terms vital aircraft and other defense equipment essential to maintaining the balance of power in the Middle East.

I know that many Senators share my concern that doubts about the stability of the balance in that troubled part of the world could give rise to a renewal of the conflict between the Soviet-supported Arab States and Israel. In recent days there have been ominous threats by President Sadat of Egypt of an attack against Israeli territory. These threats, however flamboyant and irresponsible, carry with them the danger that loose talk of invasions and war can set in motion a train of events only partially controlled, with consequences that are tragic in the extreme. Looking back, it is difficult to understand how Egypt could have chosen to mobilize for war in June of 1967. Thus, we should take little comfort from the optimistic view that because a renewal of war in the Middle East looks foolish to us, it must necessarily look foolish to those who would initiate it. I, for one, view the prospect of an outbreak of hostilities in the Middle East with the most activated concern.

There is a consensus among experts in these matters that a repetition of the 1967 war would not end, as it did then, in a matter of days—perhaps not even in a matter of weeks. In discussions here and during my visit to Israel I was made painfully aware that the next war, unlike the last, could become a war of attrition in which thousands of innocents could lose their lives, and in which the danger to world peace would increase beyond anything we have known in recent years. No one can take lightly such grim prospects. And no one can responsibly dismiss lightly the rhetoric that brings conflict closer.

I am convinced that at this moment the single most important step this country can take to help bring a measure of stability to the troubled Middle East is to make plain our determination that we will not prejudice Israel's ability to deter by further denying her the aircraft she needs to prevent an invasion across the Suez Canal or a renewal of the war of attrition against her defensive positions in the Sinai.

Mr. President, the principal element of this administration's policy in the Middle East has been a pledge to maintain the military balance in a condition of rough parity. Measuring such a balance is extremely difficult—especially, as in the present case, when superior equipment on the Arab—and Soviet—side is said to be offset by superior training and skill on the part of the Israeli defense forces. How does one compare an Israeli air force, highly skilled, with too few first-line planes with an Egyptian air force that has too many first-line planes and too few skilled pilots? And how, in such an uncertain calculation, should one weigh the massive deployment of Soviet-supplied SAM missiles throughout Egypt, any one of which is capable of destroying an Israeli plane? Finally, how does one estimate the role of the Soviet Union in the event hostilities break out? Can anyone say with certainty that the Soviets will not be drawn into a conflict—that, no matter what happens in the Middle East, they will keep their combat aircraft and their pilots grounded and their fleet at a distance from the conflict?

I emphasize these uncertainties, Mr. President, because they suggest how fragile is a military balance with so many elements—and I have mentioned only three—about which it is impossible to be precise. Moreover, the balance in the Middle East is "subject to rapid change" to use the words of Secretary of Defense Laird. The conditions prevailing today can be dramatically different tomorrow. And in all of this the crucial and decisive factor is the balance in the air; and that balance depends, in large measure, on the available supply of first-line aircraft.

Mr. President, our most urgent immediate task in the Middle East is to acknowledge that the unrestrained flow of sophisticated weapons to Egypt from the Soviet Union has jeopardized the balance of power in a most dangerous way. We can preserve the peace in the Middle East but only if we recognize that it is today threatened by the narrow margin of Israel's air defense capability. With so few planes at her disposal we invite a miscalculation on the part of the Egyptian and Soviet forces leading them to believe that they could eliminate the Israeli air force as a factor in Israel's defense and thereby reverse the events of June 1967.

It is against this background, Mr. President, that I wish to introduce my amendment to the pending appropriations bill. It is a simple amendment that merely gives effect to a policy clearly laid down by an overwhelming majority of the Senate in upholding, by a vote of 87 to 7, the necessary authority under which this appropriation is here offered.

Mr. President, last September, we voted to provide the authority to enable the President to supply credits to Israel in such amounts as may be necessary to provide aircraft and other equipment essential to maintain the balance in the Middle East.

Just a few days ago 78 Senators joined in cosponsoring Senate Resolution 177 calling upon the President to make Phantom aircraft available to Israel.

The President has the authority he needs. He has a mandate from the Senate to exercise that authority by making them available now. All that is required is an appropriation, and my amendment today is nothing more than the necessary appropriation. It would make available $500 million in military credits, half of which—or more—could be used to provide the planes that 87 Senators authorized and that 78 Senators urged be made available at once.

Mr. President, I wish to point out that the Senate version of the Foreign Assistance Act contains the authority for an appropriation of $300 million for military credits for Israel. In my view that authority is superfluous since the authority contained in section 501 of the Defense Procurement Act of 1970 is all that is required. Section 501, by agreement in a House-Senate conference, is still in force and remains in force until September 1972.

But more important is the fact that we do not as yet have a foreign assistance program. We may not get one for weeks or even months. It is subject to uncertainties and delays. None of its several provisions is securely a part of the public law.

Section 501, on the other hand, is the law of the land. I am merely proposing that we make the necessary appropriation to give effect to the policy we have legislated and so recently reaffirmed. Even if the $300 million authorization contained in the Senate version of the Foreign Assistance Act emerges from conference and is enacted into law, we will have nothing that we do not already have in section 501 of the Defense Procurement Act. The difference is that the $500 million I am now proposing can be made available immediately. And in view of the rapid deterioration of the military balance in the Middle East, especially in

the last few days, it is urgent that we act at once.

Moreover, Mr. President, the $300 million in requested authority is inadequate for both Phantom aircraft and other essential equipment. The aircraft alone will cost at least $250 million, perhaps more, and considerably more than $50 million has already been committed to supporting equipment. Thus we would face an eventual deficiency appropriation if we were to wait and appropriate funds to carry out the Senate's policy in a piecemeal fashion. If the $500 million requested in my amendment is appropriated here today I would expect the administration to adjust its $300 million request accordingly. And I need not point out that the administration has hardly been overeager to make available the planes it is my intention to fund with this amendment.

I will not go into detail about the state of the Israeli economy and Israel's obvious inability to provide for an adequate defense without credit assistance. Suffice it to say that fully 30 percent of Israel's gross national product goes to defense. And let me add that the annual cost of servicing the foreign debt incurred by Israel, largely as a result of necessary defense outlays, is alone $500 million.

Mr. President, I have long believed that we have failed in our Middle East policy to pay sufficient attention to the cynical role of the Soviet Union in exploiting the tragic conflict between Arabs and Jews. The policy of purposeful instability that the Soviets practice is a menace to international order. And it imposes extraordinary burdens on the innocent victims who must work doubly hard to achieve even minimal security for their precious freedom and independence.

All that I am proposing is that we extend the credits necessary to permit a brave ally to purchase the means with which to defend itself while we look to a better day in a more peaceful world where weapons and credits are no longer needed.

I want to state that I shall call up my amendment now; but, in accordance with the understanding that I have with the chairman of the Appropriations Committee, there will not be a vote on this matter until the two of us work out a mutually satsifactory time.

AMENDMENT NO. 750

Mr. JACKSON. Mr. President, I call up my amendment No. 750 and ask that it be read.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read the amendment (No. 750) as follows:

On page 49, between lines 21 and 22, insert a new title as follows:

TITLE IX—AIRCRAFT AND OTHER EQUIPMENT FOR ISRAEL AS AUTHORIZED BY PUBLIC LAW 91-441

SEC. 901. For expenses, not otherwise provided for, necessary to enable the President to finance sales, credit sales, and guarantees of defense articles and defense services to Israel, as authorized by section 501 of Public Law 91-441 (84 Stat. 909), $500,000,000, including $250,000,000 for sales, credit sales, and guarantees of F-4 Phantom aircraft to

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

Mr. JACKSON. I yield the floor.

Mr. DOLE. Mr. President, I yield myself 5 minutes, in the absence of the ranking minority member.

The PRESIDING OFFICER. There is no time limitation.

Mr. DOLE. Mr. President, I strongly support amendment No. 750, offered by the distinguished Senator from Washington. I would cosponsor the amendment, but I understand that the Senator from Washington prefers not to have cosponsors at this time. Is that correct?

Mr. JACKSON. I would be happy to, but the problem is that it is so late. I would be delighted if others want to join, but I offered this revised version of the amendment only yesterday. I deeply appreciate the support of the Senator from Kansas on this matter.

It is just a matter of reaching all the interested Senators.

Mr. DOLE. Let me say, Mr. President, that just this morning a group of Senators met with Secretary of State William Rogers. We discussed rather forthrightly and in some detail our concern for the balance of power in the Middle East, a topic which has been raised here today by the distinguished Senator from Washington.

I believe, of course, that America's primary objective in the Mideast must be a peaceful settlement of that region's political problem the secure existence of the state of Israel. This is also the belief of the President and of the Secretary of State.

We also believe, or at least some of us believe, that the military balance at this time between the strength of the Arab countries and that of the State of Israel is not favorable to Israel. This morning, as we met with the Secretary of State, a number of us suggested to the Secretary that Phantom jet be delivered to Israel in the near future.

Mr. President, I would suggest that the proposed troop cuts called for in this bill have unsettled many of our allies in Europe and elsewhere.

Nowhere is the importance of sincere U.S. commitment more crucial to a nation's survival than is the case with Israel in the Middle East. The Israeli's can foresee in the reduction of our commitment to Europe, as suggested in the bill, an erosion of our support for their own cause. Therefore, we must reaffirm our commitments. For to dilute U.S. commitment in Europe must also suggest dilution in the Middle East. Accordingly, I strongly urge that the Senate adopt amendment No. 750, which would provide $500 million for Israel, of which $250 million would be for Phantom F-4 jets, and $250 million for other supporting military assistance.

The fine lines of American commitment to Europe, if reduced as called for, must directly affect Israel, politically and militarily. At the present time there is no solution in sight to the stalemate on the foreign aid bill, which includes $300 million in credit for Israel. Given this certainty, the President will lack flexibility in maintaining the balance of power in the Middle East unless he can have the funding suggested in the amendment proposed by the distinguished Senator from Washington.

This situation has been made more acute by the recent bellicose statements by President Sadat, and his pledge to fight suggests an increasing truculent attitude. The Soviets have recently delivered Badger bombers and are sustaining a high level of arms support. We must permit the President to keep up with these developments.

Much of the growing uncertainty and the intensity of the problem in the Middle East may well have been spawned by the proposed troop cut in Europe.

The stalemate of the foreign aid legislation, good sense, and American interest in maintaining the volatile balance of power in the Middle East strongly support the adoption of the Jackson amendment.

Therefore, Mr. President, as one who is concerned primarily with peace in the Mideast, a peace which I believe will be accomplished only when the parties involved understand that we will continue to support the State of Israel as long as her neighbors seek to overwhelm her. Our goal of peace in the Mideast requires a balance of power which must be preserved until Israel's right to exist is politically secure. I strongly urge the adoption of Amendment No. 750 as a necessary move toward the preservation of this balance.

Mr. ELLENDER. Mr. President, will the Senator yield for a question?

Mr. DOLE. I yield.

Mr. ELLENDER. Did I understand the Senator to say that he had discussed the matter with the Secretary of State today?

Mr. DOLE. Yes.

Mr. ELLENDER. With what response? Can the Senator tell us that?

Mr. DOLE. Well, I can say that the discussion occurred this morning, with the distinguished senior Senator from New York present, as well as the senior Senator from Missouri, the junior Senator from Massachusetts, the senior Senator from Massachusetts, the senior Senator from Connecticut, the senior Senator from Wyoming, and the junior Senator from Kansas.

The discussion concerned our perception of an urgent need to deliver the Phantom jets to Israel. The distinguished Senator from New York, who is now present in the Chamber, had arranged the meeting with the Secretary. As I said before, this was not an effort to lobby the Secretary. We were there because of our interest in peace in the Mideast, and our belief that such peace depends upon the preservation of a balance of power there. The Secretary made no commitment. I did not expect him to make a commitment. But at least the subject was discussed in a forthright manner, and I believe some were encouraged, and perhaps some were discouraged. I do not know the reaction of every Senator. Perhaps the Senator from New York might wish to comment.

Mr. ELLENDER. Mr. President, what I would suggest, for the moment, since the Republican Policy Committee is having a luncheon and since the Democratic

Policy Committee is also having a luncheon, is that we recess for about 30 or 40 minutes. I would like to have some Senators present on the floor to listen to what is being said. It is my considered judgment that there is no authorization for the money now being requested, and I find it strange that the newspapers tell us that the President is doing all he can to accommodate Israel and to protect their efforts. For that to come from Senators rather than the President himself I also find strange.

Those matters I should like to discuss with enough Senators present so that we can have a full discussion of the whole matter.

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

Mr. ELLENDER. I yield.

Mr. JAVITS. Mr. President, I think that normally the question of moving for a recess would be a prerogative of the leadership. I think the Senator is correct, that Senators ought to listen to this, and there is no use making explanations, which will go into the decision on the vote on this amendment, to an empty Chamber.

Therefore, I would suggest the absence of a quorum, so that we may consult the leadership and see if they are willing to take a short recess. Would the Senator be agreeable to that?

Mr. ELLENDER. Yes. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

RECESS

Mr. ELLENDER. Mr. President, I move that the Senate stand in recess until not later than 1:30 this afternoon.

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

Thereupon, at 12:51 p.m., the Senate took a recess.

The Senate reassembled at 1:30 p.m., when called to order by the Presiding Officer (Mr. CHILES).

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington (Mr. JACKSON).

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, at the direction of the distinguished majority leader, I make the following unanimous-consent request with respect to the pending amendment by Mr. JACKSON, having discussed it with the assistant Republican leader and the distinguished manager of the bill (Mr. ELLENDER), and with the distinguished mover of the amendment (Mr. JACKSON):

I ask unanimous consent that time on the pending amendment by Mr. JACKSON be limited to 1 hour, to be equally divided between and controlled by the distinguished mover of the amendment and the distinguished manager of the bill; provided further, that time on any amendment in the second degree, motion, appeal, or point of order—with the exception of nondebatable motions—be limited to 30 minutes, to be equally divided between the mover of such and the distinguished manager of the bill—and if the manager of the bill does not oppose such, then the time on any such motion, appeal, amendment in the second degree, or point of order to be under the control of the distinguished minority leader or his designee; provided further, Mr. President, that Senators in control of the time on the amendment in the first degree may yield therefrom to any Senator on a motion, appeal, point of order, or amendment in the second degree.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—I have conferred with the distinguished ranking Republican member of the Appropriations Committee, the Senator from North Dakota (Mr. YOUNG), the distinguished Senator from Colorado (Mr. ALLOTT), the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Kansas (Mr. DOLE), the distinguished Senator from Illinois (Mr. PERCY), and with others who have expressed an interest. So far as I can determine the unanimous-consent request is satisfactory, and accordingly, there is no objection from our side.

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

Mr. BYRD of West Virginia. I thank all Senators.

The PRESIDING OFFICER. Who yields time?

The Chair awaits the pleasure of the Senate. Time is running.

Mr. DOLE. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be taken out of both sides.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JACKSON. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York (Mr. JAVITS) is recognized for 5 minutes.

Mr. JAVITS. Mr. President, I hope that the Senate will adopt this amendment of the Senator from Washington (Mr. JACKSON). I think it is a desirable and indeed an essential element in a great drama which is unfolding now concerning Israel and the Arab States, a drama which deeply and importantly concerns the United States.

Mr. President, we are Senators of the United States and so the interests of our country must be paramount. So I should like to state, first, the interests of our country in this matter.

The fact is, that well over 50 percent, as a minimum, by any calculation, of the energy resources, the oil and fuel which powers Europe's industries, comes from the Middle East.

In the case of Japan, the industrial outpost of the free world and the Far East, it is about 90 percent. Japanese reserve stocks are generally considered to be only about 30 days.

In addition, the route through the Suez Canal and the Straits of Tiran and the Red Sea represent the critical passage among three continents. The reason invaders have for centuries fought over Palestine and the contiguous areas is that it is so critically important in terms of the strategy of the world. Under all these circumstances, our country has a critical stake there. The fact is, unhappily for all of us, it is an area which is backward in a most unfortunate way in terms of education, economic progress, social and political development. It is still in a very difficult state and to the world is often an anachronism.

Under these circumstances, to have a vigorous, a courageous and a small nation with the great democratic traditions of our own and of the free world at the very heart of this area, is very much in my mind like having West Berlin in the center of Eastern Europe. It is absolutely indispensable to the hope which, somehow, is needed in the whole area, as this small nation has sought only the means to defend itself. It has never asked the United States for troops. It has asked only for what is necessary in order to safeguard its own national integrity.

It seems to me that this represents an admirable investment by the United States. That is what Senator JACKSON is asking us to do. He is asking us, first to match our policy with the survival and the security of this small state because of its prime interest to us; and second, of course, is the moral point, that we officiated at the establishment of Israel in a very important way, with President Truman. It was rent, shall we say, out of the hearts of mankind who had seen one-third of the Jewish people decimated by Adolph Hitler and who felt the call of conscience to try to give them a safe haven that they could truly call their own—those that wanted to go there.

The only final question is, how do we interpret it now? A settlement in the Middle East becomes the No. 1 priority of American policy.

Senators must make their choice. And 78 Members of the Senate have made their choice on the proposition that if we enable Israel to have a sense of security because of having her own means to defend herself, she will be much more amenable to negotiations and much more likely to be flexible in the negotiations than if she is afraid of her own survival.

With respect to this matter we may

have disagreed with the State Department. However, 78 Senators did sign their names on the dotted line to a resolution to supply Phantom jets for that purpose. As of today the present policy is the idea of denying Israel the jets. This alone will not get them the jets. The President has the right to deliver or not to deliver as he chooses. However, it will show the strong support of the Senate of the United States for the basic defense of Israel, to show that they are not completely vulnerable. That is half, perhaps more than half, of the battle.

Unless that is made crystal clear as we enter into the debate in the General Assembly which will take place soon, there will be tremendous challenges with respect to the United States.

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

Mr. JAVITS. Mr. President, will the Senator yield me 1 additional minute?

Mr. JACKSON. Mr. President, I yield the Senator from New York 1 additional minute.

Mr. JAVITS. Mr. President, this is the last time to make this point. It is for all of those reasons, starting with the national interests of the United States, that I believe the Jackson amendment should be agreed to.

Mr. JACKSON. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. ALLOTT. Mr. President, I thank the distinguished Senator for yielding.

First of all, I want to associate myself with the remarks of the Senator from Washington and the remarks of the Senator from New York in their entirety.

Mr. President, as one of the cosponsors of Senate Resolution 177, I heartily endorse the resolve in the paragraph of that resolution. I ask unanimous consent that the body of that resolution only be printed in full at this point in the RECORD.

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

S. RES. 177

Resolution calling for the shipment of Phantom F–4 aircraft to Israel in order to maintain the arms balance in the Middle East

Whereas the Soviet Union is continuing to supply additional sophisticated weapons including advanced jet aircraft, and has deployed combat pilots, and other military personnel in Egypt, and other Arab States; and

Whereas these actions have seriously affected the military balance in the Middle East and increase the danger of war; and

Whereas the aforementioned developments have encouraged certain Arab States to resist peace negotiations and to threaten the resumption of war; and

Whereas this constitutes a grave threat to peace in the Middle East, prejudicial to the vital interests of the United States; and

Whereas the policy of the United States as expressed by the President and the Congress of the United States is to maintain the arms balance in this region: Therefore be it

Resolved, That—

(1) The United States without further delay should take affirmative action on Israel's pending request for F–4 Phantom aircraft, and provide such supporting equipment and assistance as are essential to maintain Israel's deterrent capability;

(2) The United States Government should oppose any attempts at the United Nations to alter the meaning and effect of Security Council Resolution 242 of November 22, 1967, and should reaffirm the importance of secure and defensible borders as a vital element in a peace settlement to be negotiated by the parties themselves.

Mr. ALLOTT. Mr. President, I think that the Senator from New York has placed his finger on one of the things that bothers me about the Near East, and that is its importance to the peace of the world.

Any person who studies the international geopolitical situation at this time must be concerned almost by the hour with the saber rattling of President Sadat of the United Arab Republic that goes on in the Near East. This saber rattling calls attention to the very limited resources, material, and men, that Israel has.

Israel is the only true democracy in that area of the world. Its continuing survival and vitality is important to this country. Without the existence of a strong Israel, as the Senator from New York has pointed out, the energy resources of the Middle East may soon be chewed up or priced out of our market in this country.

So, like the sponsor of the amendment, the chairman of the Committee on Interior and Insular Affairs, I, as the ranking minority member, and other members of the committee are quite well aware that within the next 3 to 4 years our country is going to face an energy crisis of proportions which we never would have conceived to be possible even just a few years ago.

We cannot convert our energy from gas wells to oil, from coal to oil, or from coal to nuclear energy overnight. For this reason the maintenance of a stable political situation in the Near East is of very, very vital importance to this country. I particularly think that we cannot afford to permit Israel to take a secondary or inferior military position. And we are at the very point where this situation exists at the present time.

Mr. President, I intend to vote for the amendment making aircraft and other arms available to Israel on credit terms. I urge every Senator to examine the facts—Israel's needs and our obligations—and to join in voting for this prudent, equitable amendment.

This amendment will enable the President to exercise the authority given him last year. This amendment will provide $500 million in military credits which the President is authorized to extend. This will enable Israel to purchase those vital instruments of protection, the Phantom jets.

The Senate remembers that the original authorization for this was endorsed by 87 Senators. Subsequently, 78 Senators—myself included—have urged that the planes be made available promptly. The passage of this pending amendment is all that remains to be done to insure the necessary credits—and to insure, insofar as possible, an extended period of at least partial safety for Israel.

This amendment is not a departure from established policy. On the contrary, it conforms to the policy, and the authority, voted by the Senate 1 year ago—a year during which Israel's enemies have armed themselves still more heavily, and avoided negotiations still more determinedly.

This amendment is not bellicose. On the contrary, it asserts our unwillingness to allow a dangerous deterioration in the position of Israel. To do any less would invite dangerous miscalculations on the part of the Soviet Union and its Egyptian clients.

This amendment is not destabilizing. On the contrary, our only worry today should be whether the aid which this amendment will provide will be sufficient to offset the destabilizing influx of Soviet arms. I do not know how to make an exact equation between x number of Israeli fighter planes and y number of Soviet missiles. Nor do I know of anyone else who has mastered that complicated equation.

But, Mr. President, this much I do know. I know that it is the obligation of the United States to err on the side of safety in helping the brave nation of Israel to help itself.

The urgency of this amendment was recently demonstrated by President Sadat of Egypt. Sadat exceeded even Egyptian standards of ominous bluster in his recent speech promising war in the near future. Now is the time for the United States, by means of this amendment, to sober Sadat.

Some persons say that Sadat's speech was "mere words." Perhaps. But these people—and Sadat himself—should know that rash words kindle flames that cannot be controlled by the speaker, however calculating and cynical, he may be. I would remind skeptics, and Mr. Sadat, that the recent history of the Middle East is written in bloodshed by innocent people caught up in the madness of Egyptian leaders who were careless with inflammatory words.

At any rate, this is no time to allow our wishes to be father to our thoughts. This is not the time to indulge facile optimism.

There are those who say that Sadat's promise of war was only an attempt to drag the great powers into imposing a "solution" on Israel. If that is Sadat's intention, then now is the time to answer him by passing this amendment. An imposed solution will be no solution at all. Egypt will either negotiate, or face a stalemate with a determined Israel—an Israel backed by a United States that will not be party to an imposed "solution," and that will not allow Israel to decline into weakness.

Frankly, Mr. President, for some time now I have been skeptical of the optimism radiated by some officials of the U.S. Government with regard to the likelihood of a prompt and peaceful settlement of the tangled Middle East situation.

Perhaps our optimism has been a diplomatic necessity at times. But it has never conformed to the military facts, or to the Soviet and Egyptian intentions which their military moves reveal.

I have seen a variety of new maps for the Middle East. I have seen various

proposals for adjusting boundaries; deploying "police forces" of various compositions; for staging a congenial negotiating settlement.

I have seen the Middle East crisis settled on paper many times. But the Middle East crisis will not be settled on papers scribbled over by third parties. The crisis will be settled when the parties directly involved, and most particularly Israel and the Egyptians are brought together for meaningful negotiations. The Israelis stand ready today, as they have in the past, for just that kind of negotiations. Thus the next move is up to the Egyptians and to their ally, the Soviet Union. If the Soviet Union would disengage militarily, and the Egyptians, would engage, diplomatically, we would be well on our way to a settlement.

But until those happy eventualities, there are not many things that we can do.

But the things we can do—virtues of omission and commission—are very important.

The greatest "virtue of omission" would be for us to omit all actions that discourage the Egyptians from coming into direct negotiations with the Israelis. As long as the Egyptians can nourish the hope that we—or some coalition of great powers—will impose a solution on the Israelis, the Egyptians will be reluctant to negotiate seriously.

The greatest positive contribution we can make to peace in the Middle East right now is to vote for the amendment before us.

To repeat, Mr. President, it is the compelling duty of the United States to err on the side of safety in helping Israel to help itself. I wish I were confident that this amendment erred on the side of safety. But I am confident that this amendment does no more than prudent and simple justice demands that we do now.

There is a familiar saying about the hard realities of world politics. It is this: A democracy must win every time, a dictatorship only needs to win once.

We all pray that, in the Middle East, there will not be a "next time" in terms of war. But there may be; the record of recent history makes it, if not a probability, at least a strong possibility. And the recent belliocosity of President Sadat is about as much warning as we or Israel is apt to get.

Therefore, Mr. President, I sincerely hope that other Senators will join in the passage of the amendment of the Senator from Washington.

Mr. President, I yield back my remaining time.

Mr. JACKSON. Mr. President, I commend both Senators, the Senator from New York and the Senator from Colorado, for their excellent statements.

I express my especial appreciation to the Senator from Colorado for raising the important issue of the energy reserves in that part of the world, in the Middle East. The implications for the Western World of the loss of that area are quite obvious. The Senator from Colorado has made a real contribution by pointing up that special problem.

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

Mr. JACKSON. I yield.

Mr. AIKEN. Mr. President, as the Senator knows, the foreign aid bill carries two items—one for $85 million, and one for a minimum of $300 million—which are earmarked for Israel. The $300 million is credit sales which can go there if the President desires it, and the $85 million is supporting assistance. In addition to the $300 million earmarked for Israel, there is $250 million more authorized which the President could also use for any country.

If the Senator's amendment to the pending bill should be agreed to, would the Senator then be agreeable to taking the $385 million out of the foreign aid bill.

Mr. JACKSON. The situation, as the Senator knows, is that the authority to appropriate under my amendment was passed last year under section 501 of the Procurement Act.

I would point out that we have $500 million in this amendment. Of that, $250 million is needed for Phantom aircraft, and $180 million of the remainder has already been spent, which leaves only $70 million. In the Foreign Assistance Act there is $85 million in economic assistance.

Mr. AIKEN. That is supporting assistance.

Mr. JACKSON. What is not needed could be taken out.

Mr. AIKEN. The Senator is correct. But the $300 million minimum in the credit ceiling for military supplies should also be taken out.

Mr. JACKSON. That would be up to the conferees, of course. Assuming that the funds are made available, there is no need for the authorization, because it is already authorized by law.

Mr. AIKEN. I say, regardless of what else happens to the foreign aid bill, these two items undoubtedly will stay in there as they are, the $85 million and the $300 million minimum credit for Israel.

Mr. JACKSON. The Senator is correct.

Mr. AIKEN. I would not want to see them in both bills.

Mr. JACKSON. No one knows when we will have a foreign aid authorization bill.

Mr. JAVITS. Mr. President, would the Senator yield further?

Mr. JACKSON. I yield.

Mr. JAVITS. It is a fact that what the question of the Senator from Vermont and the answer of the Senator from Washington leads to is that it is not intended as a duplication of the foreign aid bill in this appropriation, and insofar as there is a duplication, the Senator would contemplate that that duplication would be omitted. Also, is it not a fact that the same Appropriations Committee will have to deal with the foreign aid appropriations and that the committee has two bites at it, one in the authorization and the other in the appropriation?

Mr. JACKSON. The Senator is correct. And there is a basic authorization in the law that runs through September of 1972.

Mr. President, I now yield 5 minutes to the distinguished senior Senator from Connecticut.

Mr. RIBICOFF. Mr. President, my praise and commendation to the distinguished Senator from Washington whose depth of knowledge and understanding of the entire Middle East are a great boon and asset not only to this body, but also to the entire free world.

Mr. President, while the United States has continued to withhold Phantom jets from Israel, considerable quantities of Soviet arms and equipment, including the latest combat aircraft, have continued to flow to Egypt. Additional aircraft have been delivered in recent months. Only last week the State Department, after praising alleged Soviet restraint, was forced to admit heavy bombers with air to surface missiles were supplied to Egypt.

According to open sources, which may be outdated by now, the Egyptian air force today has almost 500 supersonic jet aircraft, most of them late model Mig–21's. Since the cease-fire in August of 1970 Egypt has received more than 120 new supersonic aircraft from the U.S.S.R. Five to seven Soviet combat squadrons are stationed in Egypt flying their own aircraft from bases under exclusive Soviet control.

Recent deliveries to these bases include numbers of Sukhoi 11's—Flagon—and Mig–23's—Foxbat, the newest and best planes in the Soviet arsenal, aircraft never previously deployed outside the Soviet Union. The number of Soviet pilots in Egypt is estimated at close to 200 and the total number of Soviet military personnel is between 15,000 and 20,000, including combat ground forces responsible for the operation and protection of their sophisticated missile systems which include the latest SAM–4's and SAM–6's.

More ominously in the light of President Sadat's bellicose threats, the Soviet Union has been furnishing Egypt a continuing supply of helicopters for troop transport and assault, along with the latest amphibious equipment. This includes quantities of the only operational amphibious tanks in the world today.

The military ties between the Soviet Union and Egypt were confirmed in the agreement signed last May between the Presidents of Egypt and the Soviet Union, and were restated following President Sadat's most recent visit to Moscow. In the joint communique concluding this visit it was announced that "specific steps for the additional strengthening of the military might of Egypt" had been agreed upon. This can be interpreted as indication of a new arms deal between the two countries.

To the extent that Soviet arms deliveries may have been moving at a slower pace in recent months, this can primarily be attributed to the Egyptian army's capacity to absorb so much new equipment. Last year, Soviet deliveries followed a similar pattern.

It should be obvious to American policymakers by now that because of its particular strategic situation and vast numerical inferiority in troops and armor, Israel must rely on its air force as the decisive element in its defense. This explains the acute sensitivity in Israel to any development that threatens its air force's capabilities and the arms

balance. By permitting a situation to develop where this balance is not treated on its own merits, the United States is placing Israel at both a military and political disadvantage—and all for the purpose of forcing disastrous concessions from Israel.

Militarily, Israel is now threatened by the prospect of renewed hostilities, prompted by the shift in the arms balance. Politically, the current aircraft embargo weakens Israel's negotiating strength and automatically encourages Arab intransigence. The shift in the arms balance accompanied by the withholding by the United States of aircraft to Israel undermines any political progress and actually enhances rather than lessens the chances of renewed war.

President Sadat has publicly made clear what was obvious to many of us for many weeks, the prospects of an interim Suez Canal agreement are nil. Our Government's diplomatic maneuverings with respect to the interim settlement have not influenced the Egyptians into a more reasonable posture. On the contrary, it has offered them the temptation of renewing the conflict. The good offices role which the United States assumed in an effort to promote an interim settlement has been harmed by its public statements, notably the six-point plan announced at the U.N. which raised serious threats to Israel's security.

If an interim settlement of any kind is to be worked out, and if a genuine overall settlement is to be arranged, the chances for attaining them are damaged, not improved, by withholding planes from Israel, and by making the United States an advocate of Egyptian positions.

The amendment being offered today by the Senator from Washington (Mr. JACKSON) is a logical follow on to Senate Resolution 177, which was introduced by Senator SCOTT along with 77 cosponsors and the original 87 to 7 vote in the Senate approving section 501 of Public Law 91–441.

This amendment is a vital step in directing our Nation's policies toward achieving genuine peace in the Middle East by enabling Israel to have the military means to thwart Soviet ambitions and Arab threats of war at this critical juncture.

Let me emphasize that what this amendment covers are credit sales, not gifts. Unlike other nations upon whom we have lavished billions in military equipment, Israel has so far paid for all of its defense purchases from the United States, despite the crushing burdens imposed on her people. No other nation in the world must devote more than 25 percent of its GNP for its defense.

By approving this amendment today, the Senate will be helping avert the chances of war in the Middle East, by undoing much of the damage that has already been done to American interests in the Middle East by State Department policies of vacillation and wishful thinking.

I urge all the cosponsors of Senate Resolution 177 to implement that resolution today by approving this amendment.

Again, my commendation to the Senator from Washington for his leadership on this particular issue.

Mr. JACKSON. Mr. President, I wish to thank the senior Senator from Connecticut for a very fine statement. He is very modest when he refers to the interest I have taken in this area, because the Senator from Connecticut has been a student of this problem dating back to the days when he served on the House Foreign Affairs Committee with such distinction.

I have no further requests for time on this side of the aisle, Mr. President.

Mr. ELLENDER. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 minutes.

Mr. ELLENDER. Mr. President, I oppose this amendment, because it is not in order. It has not been authorized nor has the President asked for it, except I understand he asked for $300 million in the foreign aid bill passed by the Senate last week.

To say the least, Mr. President, I was taken by surprise when I was informed just 2 hours ago that the pending amendment would be offered to the bill that the Committee on Appropriations considered only last week.

There was no evidence presented to our committee on this amendment. To the contrary, whatever evidence has been submitted has been submitted to the Committee on Foreign Relations. Why this amendment is being proposed to the Defense bill I cannot understand. There is ample time for the Committee on Foreign Relations to take action. There is ample time to consider this in the regular manner rather than appending it to an extraneous bill, the Defense bill, where no hearings have been held.

Mr. President, last year when we marked up the Defense bill the committee did not permit any appropriations that did not have a budget estimate, except for some very small items.

This morning we have reported this bill and we have indicated to the Senate and to the country that the appropriation bill is $3.3 billion below the budget estimate, and over $800 million below the House estimate. Now, in one swoop we are being asked to add $500 million to this bill to assist Israel. I do not like to see that. We have other methods to accomplish whatever is justified.

Above all, I am saying to the Senate that there is no authority under the law by which this appropriation could be appended to the pending bill.

Under the rules of the Senate, before any appropriation can be made there must be authority through the authorizing committee, and it is my contention that there is no such authority at present. The language relied upon by the proponents of the amendment, from my understanding, is included under section 501, title V, general provisions of Public Law 91–441.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ELLENDER. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. ELLENDER. Now, what is that language? Does it specify that a certain amount must be used for the purposes indicated here?

The language appears under the "General Provisions" of the act. It is not a specific provision. If any Senator will simply look at the authorizing legislation for appropriations, they will find that this authority to appropriate is expressly spelled out. But here is what the proponents of this amendment rely on:

> The Congress views with grave concern the deepening involvement of the Soviet Union in the Middle East and a clear and present danger to world peace resulting from such involvement which cannot be ignored by the United States. In order to restore and maintain the military balance in the Middle East, by furnishing to Israel the means of providing for its own security, the President is authorized to transfer to Israel by sale, credit sale, or guaranty such aircraft, and equipment appropriate to use, maintain, and protect such aircraft, as may be necessary to counteract any past, present, or future increased military assistance provided to other countries of the Middle East. Any such sale, credit sale, or guaranty shall be made on terms and conditions not less favorable than those extended to other countries which receive the same or similar types of aircraft and equipment. The authority contained in the second sentence of that section shall expire September 30, 1972.

No mention is made of funds there. It is simply a clause that we find in many bills under the title of "General Provisions." Nowhere in that act is any amount stated or is there anything saying that this money is to be appropriated. In fact, the provision merely gives the President authority to transfer funds.

In a moment I am going to ask the distinguished Senator from Arkansas (Mr. FULBRIGHT) to state what happened last year under this law. Last year, I understand no one objected, and no point of order was made, and $500 million was made available to Israel for credit military sales.

Although that $500 million was made available, we are again confronted with a request for $500 million more.

Mr. President, in addition to that, we have pending now in the foreign aid bill a $300 million item for military credit sales for Israel. So that, if this proposal is enacted, it means that we will add $500 million more to the $500 million that we added last year, and if the foreign aid bill is enacted, there will be another $300 million for Israel, making a total of $1.3 billion available in just 1 year.

What does that mean? Without any specific mention, but simply by an authority to transfer under the general provisions of this act, we appropriated $500 million last year, and we are considering $500 million more now, and $300 million in the foreign aid program. Where is the limit? This is not an open end authorization. There is no mention, as a matter of fact, that this is intended to be an authority to appropriate. There is absolutely nothing in it to show that this money is authorized.

Mr. President, as I previously indicated, before we call for a vote on this amendment, I expect to make a point of order.

Mr. FULBRIGHT. Mr. President, will the Senator yield me 5 minutes?

Mr. ELLENDER. I yield 10 minutes to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, the distinguished chairman of the Appropriations Committee, has stated quite accurately the origin of this matter and the alleged authority. I have recently read the law. It does not authorize an appropriation. It simply authorizes the President to transfer aircraft and materials by various means.

I may correct one small detail. I raised the question of procedural propriety last year, because the proposal was brought in without any hearings or proper legislative basis. The Senate, however, in its wisdom, over my objection, did pass the item. But it is not authority; at least, it is not authority to appropriate. It is the type of authority the Senator just mentioned.

So the Senator has correctly stated the situation.

The military credit sales authority in S. 2819 is, as he has said, a credit ceiling of $550 million of which $300 million is earmarked for Israel. The bill also contains an authorization of $85 million of supporting assistance for Israel. The $85 million is a grant which the administration did not request. It was put in the bill in the committee without its being requested by the administration. The administration indicated they tentatively planned to make $300 million in credit sales to Israel.

Actually, there is nothing to prevent the administration, from using all of the $550 million ceiling for Israel if he wants to, but $300 million is earmarked specifically for Israel.

I must say also that Congress passed a provision in the Foreign Military Sales Act which states that no appropriation shall be made except pursuant to an authorization, as the Senator well knows. This seems to be directly contrary to that.

Let me say further on the matter of policy, the administration, under the leadership of the Secretary of State, has been making a strong effort to bring about a negotiated settlement in the Middle East. I believe, and I think the President believes, that this is the only way to bring about peace there. I think what the Senate did last September, and what it is being asked to do today, is creating one of the principal obstacles to bringing about a settlement of the war between Israel and the Arab nations.

I have supported the President's policy. I have made speeches here in the Senate and in other places supporting the President's efforts to bring about a negotiated settlement based upon the United Nations resolution of 1967.

Everyone knows the critical question now is whether Israel is to retain the territory which she conquered in that war. Apparently Israel has made up her mind it is going to retain it, which automatically, I think, prevents the possibility of a negotiated settlement. That is a very controversial matter. It is controversial in Israel. Mr. Ben Gurion, one of Israel's greatest statesmen, is in accord with my view. I quoted a speech he made in this country in which he stated he believed the long term good of Israel depended on settlement, not in a long perpetuation of the war, and not upon military acquisition of territory.

I think Congress is interfering with the efforts of the administration to bring about a negotiated settlement in the Middle East.

I believe it is a great mistake to do so. I realize the emotional appeal of Israel. It is a valiant country. Certainly I do not wish to do anything to undermine its security.

This is a question of judgment as to what is in the interests of this country as well as of Israel. It is my opinion that it is in the interests of this country and of Israel to support the President's efforts to bring about a negotiated settlement. He has judged, and the administration has, that there is a military balance in the Middle East. On that basis, he has up to now declined to provide further Phantom jets, as would be provided by this amendment.

The amendment is designed to force the hand of the President, to bring pressure to bear upon the President to do what evidently is against his better judgment as to the proper way to bring about a settlement in the Middle East. I think that is what it is obviously intended to do.

I have no objection to the Senate taking issue with any President, if they feel that they know enough about the subject matter, and that it is in the interests of this country to do so. In this case, all I am saying is that I agree with the judgment of the President on all counts that the effort to bring about a negotiated settlement is in the interests of the United States as well as those of Israel and people everywhere.

This Government does not want to precipitate or to develop a confrontation with Russia. And there is a very dangerous situation in the Middle East. The President correctly said, not too long ago, that he thought the Russians were being rational in the armament they were providing the Egyptians. That is our information. I know of nothing to contradict that.

So now, while of course the Senate has a right to do what it likes with the public's money, I agree with the President's policy and with what the Senator from Louisiana has said.

In addition to that, I think, as an orderly procedure, if we are ever to be a responsible body, we have to follow the usual, established procedure in this body for the appropriation of large sums of money, which is authorization after hearings, and then an appropriation, also after hearings and deliberations, by the appropriate committees. I think it is a very questionable procedure to bring in amendments to appropriate vast amounts of money without any hearings whatever.

The Foreign Relations Committee does not specifically say to the President, "You have got to give them $250 million in Phantom F–4's." It simply gave him authority to extend military credit sales of $300 million. It seems to me that is ample, under the circumstances, and that it would be unreasonable to go beyond that. As the Senator says, this would be a total of $1.3 billion for military aid to Israel within the space of a little over a year. And in addition there is the $85 million in grants for supporting assistance, which as a practical matter, can be considered an additional amount for the purchase of arms for their own forces.

Lastly, I want to say that I think that those who go too far, who go as far as I think this amendment would do, in support of Israel, run a grave risk——

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

Mr. FULBRIGHT. I ask for 1 more minute.

Mr. ELLENDER. I yield the Senator 1 minute.

Mr. FULBRIGHT. Run a grave risk of creating an attitude which would be counterproductive, if I may use that terrible word.

In other words, it will be against Israel's interest in the long run. If we do become involved as a result of failure to bring about a settlement in the Middle East, and there would be demands for us to become involved, in view of our stringent circumstances, there is a great danger that there would develop in this country a reaction against Israel, which I would regret. The wisest policy, I think, as I have stated, is that of the President, who is trying to be as even-handed in this area as we can. That was the language, I believe, that the Secretary of State used, to try to be just and equitable to both sides, and above all, for the purpose of bringing about a negotiated settlement in one of the most explosive areas in the world, the area where the United States and Russia are, I would say, closer to a confrontation than in any other area—the area which might lead to a very serious conflict between these two super-powers, neither of which wants it.

So I regret very much that this amendment is offered, and I think the Senator from Louisiana is quite correct.

Mr. ELLENDER. I yield 5 minutes to the Senator from Oklahoma.

Mr. BELLMON. I thank the Senator.

Mr. President, there has been a reference made on the Senate floor this afternoon to saber rattling by President Sadat of Egypt, and I would like to share with my colleagues some of my observations.

I had the opportunity, only about 10 days ago, to meet with President Sadat in Cairo. I was there for a visit to the Aswan Dam, and was in the country for the better part of a week. My meeting was arranged at the President's request, not at mine, and I believe Members of the Senate might be interested in some impressions I gathered during that conversation.

I believe it is necessary, in order to understand what President Sadat may be doing now, to recognize the political situation in Egypt which brought him to power, and the problems he faces in trying to govern his country in a very difficult time. I think we need to recognize that since becoming president of Egypt, President Sadat has taken a great many steps and has made many moves that seemed impossible a few months ago. He has agreed to virtually every requirement of the U.N. resolution. He has agreed to four-power presence, any U.N. presence, or any other presence in the Sinai that would guarantee the access of Israel to the Gulf of Aquaba. He has

agreed publicly and repeatedly to defend the existence of Israel as an enduring state in the Middle East. In my opinion, he has been extremely gracious; he has taken these steps at a time when his own government was in an embryonic stage. He simply cannot be expected to go on forever taking the kinds of action he has taken unless the United States or the Government of Israel, or others interested in that area, can give some evidence that those actions are beginning to produce some results.

The Egyptians have a phrase, which I cannot pronounce, which means "empty words." I am of the opinion that from time to time the rulers of Egypt, and even rulers in this country, engage in this exercise partially to keep their own people somewhat appeased. It is my opinion, though I am certainly not quoting President Sadat, that some of the actions we look upon as saber rattling may be taken at this time to help the people of his own country realize that he is a strong leader, that he is not afraid to take a distasteful step if one is necessary, but I believe this we ought to recognize that the things he has actually done and the moves he has actually made are moves, not toward war, but to find a peaceful solution to the difficult and complex relationship between the Arabs and the Israelis.

I am convinced, based on statements by our Government and observations I was able to make while I was in Egypt, that the Russians are not at the present time sending more arms to Egypt. I know, based again upon my observations, that the Egyptians are anxious to see the time when they will need more arms come to an end. I was told repeatedly that Egypt is paying in sterling, once a month, for the cost of whatever military equipment and personnel the Russians have furnished Egypt. I know that the Egyptians are extremely anxious to stop this drain on their national treasury, so that those funds may be applied to the development of their country and toward meeting the very serious social problems that exist there. They realize, and I think everyone in the Senate would agree, that it is ridiculous for a poor country to continue to waste its limited funds on war or preparation for war, and certainly this is true for both the Arabs and the Israelis.

In my opinion, the issue of Phantom jets is largely political. It is intended to attempt to further polarize our country. It is intended to push the United States further into an anti-Arab posture so far as world opinion is concerned. Three times in the last 20 or 25 years, the Israelis have demonstrated their complete military superiority.

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

Mr. BELLMON. Will the Senator yield me 1 additional minute?

Mr. ELLENDER. I yield 1 additional minute.

Mr. BELLMON. I doubt that a further demonstration of this superiority would come any closer to producing a solution to the problem than has already been produced. To me, the answer over there is not a military answer; but, rather, hope for the future lies in seeking a peaceful resolution.

It is plain to me, after the actions President Sadat has taken, that the next move is up to this country or to the Israelis. Since Israel has so completely demonstrated its military superiority—and I think all of us admire the Israelis for what they have done—it seems to me that they are in a position to be somewhat magnanimous in this situation and ought to make a move not toward war but toward peace; and our Government ought to insist and ought to support them in moving in that direction.

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

Mr. JACKSON. I yield 2 minutes to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I have heard it said on the floor today that there is a military balance between Egypt and Israel. If we go just by the measure of equipment, this could be correct in some areas; but if we go in the whole arena, it is not correct.

For example, at the present time, the ground forces of Egypt outnumber those of Israel about 3 to 1. The air forces are even more lopsided. They outnumber the Israelis about 5 to 1.

The question to me in this whole argument is whether we keep our promise or not. Some of us may not like it, but we have made commitments, not in written treaty form. But we made it plain to the Israelis that when they get into trouble, we are going to help them.

I remind my colleagues that the Phantom line, the F–4 line, is very rapidly drawing to a close. Our new Air Force fighter, the F–15, will begin coming off the line sometime next year. Even the purchase of F–4's by Germany is not going to keep that line up indefinitely.

If we are going to continue what we have promised for Israel, it seems to me that now is the time, because we do not have much time left. Frankly, I would hate to see my country fail to keep its word again.

In closing—and with no relationship to this—it is amusing to sit on this side of the aisle and hear my colleagues on the other side say that this is procedurally wrong because it did not go to an authorization committee. We did precisely the same thing yesterday, so I am anxious to see how the Senate will vote on the point of order today.

Mr. JACKSON. I thank the Senator from Arizona for making a very important point in connection with the balance of forces. I think that is something that has not been discussed on the floor, and it is indeed a very valid point.

Mr. President, I wonder whether the Senator from Louisiana wishes to take some time.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Washington has 7 minutes remaining, and the Senator from Louisiana has 2 minutes.

Mr. JACKSON. I yield 5 minutes to the distinguished Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I rise, first, to commend the distinguished Senator from Washington for his leadership in this matter and to join the Senator from Connecticut (Mr. RIBICOFF) in his support of this amendment.

I believe that the Senator from Washington (Mr. JACKSON) has properly answered the issue as to whether or not there is an adequate authorization for the funds that are to be made available under the amendment of title IX, section 901, being proposed by Senator JACKSON. I do not think there is any doubt that the history of section 501 of the Military Procurement Act makes very clear that there is adequate authorization.

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

Mr. HUMPHREY. I yield.

Mr. JACKSON. I think this is a good time to lay to rest the argument about an inadequate authorization here.

I would point out that during the discussion of this amendment to the Military Procurement Act of 1971—the debate in the Senate on September 1, 1970—the whole argument was over the question of an authorization for appropriation; and the main contention of the Senator from Arkansas (Mr. FULBRIGHT) was that this was an unlimited authorization and appropriation. The RECORD is replete with the discussion on that point; and the Senate adjudicated that question by a vote of 87 to 7.

I think that should lay to rest any argument here about the legislative history of section 501 of the Military Procurement Act.

Mr. HUMPHREY. The Senator from Washington has made it very clear that that is the situation that prevailed a year ago September. It still prevails. The authorization is there. Now the question is, will we make that authorization effective?

The question has been raised about the Foreign Assistance Act. We do not know what is going to happen to the Foreign Assistance Act. There is uncertainty. But there is no uncertainty about what is happening in the Middle East. There is no uncertainty that the Soviet Union has negotiated a new agreement with the United Arab Republic for military assistance. There is no uncertainty as to the fact that those planes are coming into the United Arab Republic. There is no uncertainty that there are Soviet pilots in Soviet planes in Egypt. There are as many Soviet pilots in Soviet planes in Egypt as Israel has in her air force with her planes and Israeli pilots.

Every time our Government vacillates, the situation in the Middle East becomes more grave. Whenever the President of the United States takes a firm stand, the Soviet Union becomes much more willing to talk and the United Arab Republic becomes much more willing to negotiate.

Within the last 48 hours, word has come from Cairo that war may be forthcoming; that President Sadat has been, in a sense, steaming up, stimulating, pleading with his troops to get ready.

I submit that the balance of power in the Middle East is in the vital interest of the United States of America; that Israel today is in danger of being on the weak side of that power structure, and

the moment she is, she is in danger of attack.

We are not offering credit sales to Israel out of sheer affection for Israel. The simple fact is that this is one way—and about the only way I see—to preserve any hope of peace in that area that can lead to negotiations.

Therefore, I support vigorously the amendment of the Senator from Washington. A few days ago, on November 16, I entered into the RECORD a statement about Phantom jets for Israel. I pointed out what was beginning to happen: the ratio of airpower in the hands of the United Arab Republic as compared to that of Israel, the modernization of the Egyptian air force, the extensive training of the Egyptian air force. It is not just a matter of jets. The Soviet Union today has a naval base in Egypt. The Soviet Union today mans missiles in Egypt. The Soviet Union is there. I think that the only way we have a chance to preserve any semblance of peace is to support this amendment and insist that the Government of the United States act promptly to make these jets and other military equipment available.

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

Who yields time?

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

Mr. ELLENDER. I yield.

Mr. MANSFIELD. Does this mean that $500 million will be added to the appropriation bill as reported by the committee?

Mr. ELLENDER. The Senator is correct.

Mr. MANSFIELD. Does this usually take place when the consideration of the foreign aid bill is before us?

Mr. ELLENDER. Well, it will take place.

Mr. MANSFIELD. In military grants.

Mr. ELLENDER. Yes, it will; because in the foreign assistance bill is an item of $300 million and that is authorized.

Mr. MANSFIELD. I see.

Mr. ELLENDER. That will come up in due time.

Mr. MANSFIELD. That means $500 million as appropriated——

Mr. ELLENDER. Right. It is proposed to add it to this bill.

Mr. MANSFIELD. In addition to what the committee reported?

Mr. ELLENDER. Right. It also means that the $500 million that was appropriated last year——

Mr. MANSFIELD. What does the Senator mean; $500 million more?

Mr. ELLENDER. Yes.

Mr. MANSFIELD. Does that mean $1 billion then?

Mr. ELLENDER. Yes, that will be $1,300,000,000 if the Foreign Relations Committee acts favorably on the question.

Mr. FULBRIGHT. It has already acted favorably. It is in conference.

Mr. MANSFIELD. Not in lines of credit but cash appropriations.

Mr. ELLENDER. Yes, cash appropriations, to be used as indicated.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. BROCK). One minute remains to the Senator from Louisiana.

Mr. ELLENDER. I thank the Chair.

Mr. President, I cannot say very much in 1 minute except to reemphasize what the Senator from Arkansas said awhile ago, that the President of the United States as well as the Secretary of State have taken care of this matter. The President has not asked for this and neither has the Secretary of State. It is a group of Senators who are now asking that we provide this $500 million and that is in addition to the $500 million we made available last year. If the Foreign Relations Committee——

Mr. FULBRIGHT. The foreign aid bill is in conference.

Mr. ELLENDER (continuing). Comes up with their bill, it will mean a total of $1.3 billion that we shall have available for Israel.

Mr. FULBRIGHT. That is right. It has passed the Senate.

Mr. ELLENDER. I do not believe that is right. This is being proposed, as I say, without authorization.

Mr. President, I want to make a point of order——

Mr. JACKSON. Mr. President, I think it is important to keep the record straight. Section 501 of the Defense Procurement Act of 1971, which we adopted last year, came into being because the Military Sales Act expired on July 1, 1970. There was then no authority to appropriate credits for the State of Israel. We are talking about long-term credits which involve a direct appropriation. I want to make it clear that it requires appropriations to implement it. But I would point out and emphasize that the reason section 501 was passed is that there was no authority; and the reason why there was no authority at that time to extend the credits, and the reason why this amendment is being offered today is that we do not have authorized into law the Foreign Assistance Act. It is pending in conference. It is reasonable to assume that it is highly questionable that an authorization for foreign aid will be approved before we adjourn.

That is why this amendment is being offered here today, because it is pursuant to an authorization approved by the Senate 87-to-7. It is that simple. I would point out that 78 Senators have indicated, by a resolution introduced before the Senate, their support for what we are asking here now.

The PRESIDING OFFICER. All time has now expired.

Mr. ELLENDER. Mr. President, now I wish to make a point of order. As I understand it, there will be 15 minutes to a side, 30 minutes altogether; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ELLENDER. Mr. President, as I pointed out a while ago——

The PRESIDING OFFICER. The Senator must raise the point of order first.

Mr. ELLENDER. All right. I make the point of order that this proposed appropriation is without authorization, which is contrary to rule XVI, paragraph 1. I therefore make the point of order and I would like to be heard.

The PRESIDING OFFICER. The Senator has 15 minutes on the question of the point of order which is now before the Senate.

Mr. ELLENDER. Mr. President, as I pointed out a while ago, the distinguished Senator from Washington and others argue that this appropriation is authorized by title V, section 501, Public Law 91–441. This is not an authorization. The rules of the Senate provide that the authorization must be expressly stated in legislation. If appropriations are to be made on the basis of what is implied in legislation then we can do away with the authorizing committees.

Since enactment of section 501, Congress has passed the Foreign Military Sales Act, Public Law 91–672 which was approved on January 12, 1971. In section 10a of that act:

> SEC. 10. (a) Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales)—it is specifically mentioned—shall be available for obligation or expenditure—
>
> (1) unless the appropriation thereof has been previously authorized by law; or

That is the law now, and that is what is expressly provided in the rules of the Senate.

Mr. President, it is crystal clear that there is no express authorization for appropriating additional funds for military credit sales to Israel.

I have been advised that the Parliamentarian has been furnished a legal opinion by the Office of Legislative Counsel indicating that section 510 of Public Law 91–441 is an implied authorization to make this appropriation for military sales to Israel, and that if a point of order is made against the amendment, it may be that the Chair would rule that it is in order. I do not believe the Chair will so rule.

This matter should be of grave concern to all the authorizing committees. We have always operated under the rule that appropriations must be expressly authorized in legislation. A ruling that this appropriation is in order will establish a precedent that should be of concern to the legislative committees more than to the Committee on Appropriations. It would seem that such a precedent would give to the Committee on Appropriations far-reaching authority to make appropriations where authorizations are only implied.

As long as I am chairman of the Appropriations Committee, I shall continue to insist on express authorizations rather than implied authorizations. I do not feel we should circumvent the rules of the Senate simply because some feel it may be expedient to do so. If we do violence to our Senate rules in this instance such action will haunt us later; mark my words.

Mr. FULBRIGHT. Mr. President, will the Senator from Louisiana yield for a question?

Mr. ELLENDER. I yield.

Mr. FULBRIGHT. Mr. President, according to the theory the Senator referred to by the council, if the Senate authorizes the President to do anything

without allowing any appropriation at all, an appropriation is nonetheless authorized. That seems a very odd theory to me. What that means is the authority to transfer planes to Israel. We have hundreds and thousands of planes. That is authority to transfer. That is what section 501 says, to transfer.

It does not say it authorizes the President to give them money. It is the transfer of planes.

I remember we had a question of this nature to come up concerning the authority for the Secretary of State to utilize foreign currencies. The question was raised about whether this was not in violation of the Constitution because it was an appropriation. The Attorney General ruled that it was not an appropriation, because it was not money from Treasury that was authorized. That was a sound distinction.

Here, we are not authorizing an appropriation of money out of the Treasury. It seems to me that the proposed amendment, which is without any authority, makes a shambles of the whole concept of authorization and appropriation.

Mr. ELLENDER. That is my point. In addition to all of that, Congress has additionally acted since that time and has said it shall not be, unless authorized.

Mr. President, I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I have always taken a dim view of a legislative committee trying to appropriate money. Likewise, I think a legislative committee has just as much right to resent the Appropriations Committee trying to authorize the appropriation of money in a strictly appropriations bill.

In the case of this amendment, there is no budget item, no authorization whatever. I never heard of this amendment until this morning. This is a big sum of money, $500 million to appropriate without even a hearing.

Mr. President, I have received correspondence with reference to Senate Resolution 177. However, I am not one of the 78 cosponsors. I agreed when answering letters from constituents that we should sell these F–4 jets to Israel. But not illegally or against the rules of the Senate.

Mr. GRIFFIN. Mr. President, I understand that the time on the point of order has been assigned to the minority leader. On his behalf, I assign the time to the Senator from New York with the understanding that at least 5 minutes be yielded to the Senator from Washington (Mr. JACKSON).

Mr. JAVITS. Mr. President, I thank the acting minority leader. I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. JACKSON. Mr. President, the issue here is whether section 501, in order to be effective, must have language which, in effect, authorizes an appropriation. The distinguished senior Senator from Louisiana relies on Public Law 91–672, section 10, subsection (a), in which it states:

> Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales) shall be available for obligation or expenditure (1) unless appropriation thereon has been previously authorized by law.

First, let me state that the section we are relying on, section 501, is in fact an authorization for an appropriation. That is the whole point. I ask unanimous consent to have printed in the RECORD the memorandum for the Parliamentarian which was prepared and signed by Mr. Hugh C. Evans, senior counsel for the Office of Legislative Counsel, in which he answers this question, stating that section 501 is an authorization; and he very succinctly outlines his arguments in support of that proposition. He relies heavily on the legislative history on section 501.

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

MEMORANDUM FOR THE PARLIAMENTARIAN

This memorandum is written in response to your request for the opinion of this office whether section 501 of Public Law 91–441, approved October 7, 1970, was an authorization for the appropriation of funds to carry out the purposes stated in that section.

Section 501 is contained in the Act authorizing the appropriation of funds for the fiscal year beginning July 1, 1971, for military procurement. Section 501 provides as follows:

SEC. 501. The Congress views with grave concern the deepening involvement of the Soviet Union in the Middle East and the clear and present danger to world peace resulting from such involvement which cannot be ignored by the United States. In order to restore and maintain the military balance in the Middle East, by furnishing to Israel the means of providing for its own security, the President is authorized to transfer to Israel, by sale, credit sale, or guaranty, such aircraft, and equipment appropriate to use, maintain, and protect such aircraft, as may be necessary to counteract any past, present, or future increased military assistance provided to other countries of the Middle East. Any such sale, credit sale, or guaranty shall be made on terms and conditions not less favorable than those extended to other countries which receive the same or similar types of aircraft and equipment. The authority contained in the second sentence of this section shall expire September 30, 1972.

While this section does not contain the phrase "authorized to be appropriated" or similar language, there are two reasons which convince me that such section is an authorization of appropriation provision.

The first reason is based on the legislative history of the provision. It is clear from this history that the provision was intended to be an authorization for the appropriation of funds. Section 501 was added to H.R. 17123 of the 91st Congress by the Committee on Armed Services of the Senate. (H.R. 17123 was subsequently enacted as Public Law 91–441). At the time that H.R. 17123 was being considered on the floor of the Senate, many Senators believed that the language of section 501 was necessary because (1) it was not likely that a foreign military sales authorization bill would be timely enacted for the fiscal year beginning July 1, 1971, given the respective positions of the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs regarding certain amendments adopted by the Senate to such authorization bill, and (2) even if enacted, there would be insufficient authority to provide adequate military assistance to Israel.

At the time the Senate Committee on Armed Services was considering H.R. 17123, Senator Jackson offered the amendment under discussion and it was agreed to by the Committee. The Senate agreed to the committee amendment with a floor amendment limiting the life of the committee amendment to September 30, 1972. It was during the course of discussion on the Senate floor of an amendment offered by Senator Fulbright to section 501 that the purpose and intent of section 501 was clearly revealed. A copy of the pertinent pages of the Congressional Record pertaining to that amendment by Senator Fulbright is attached for your information.

The apparent purpose of section 501 was to enact a special military sales Act for Israel. The proponents felt that the funds then available to assist Israel were inadequate and that, because of the situation in the Middle East at the time, additional funds were necessary to aid Israel.

The Foreign Military Sales Act authorizes generally the same type of assistance for friendly foreign nations as section 501 authorizes for Israel. Except for cash sales, funds must be appropriated to carry out other types of sales and guarantee arrangements entered into under the Foreign Military Sales Act. Accordingly, if one accepts the position that section 501 was intended as a special military sales Act for Israel, it logically follows that funds were intended to be authorized thereby.

Mr. Woodruff of the Senate Committee on Appropriations informed me, in response to an inquiry made by me, that in requesting funds for military assistance to Israel in the supplemental appropriation bill in 1970, the President cited the provisions of section 501 as the basis of such request. An appropriation of $500,000,000 for military assistance to Israel was included in Public Law 91–665, approved January 8, 1971. House Report Number 91–1688 which accompanied H.R. 19928 (subsequently enacted as P.L. 91–665) states that the funds included for Israel were being appropriated pursuant to the authorization provided for in section 501 (see page 14).

The second reason for believing that section 501 is an authorization for appropriations is that the section authorizes the President to undertake certain acts. The enactment by Congress of a provision of law conferring authority upon the President to perform certain acts itself constitutes authority for the appropriation of funds to carry out those acts, in the absence of a clear legislative intent to the contrary. Otherwise, Congress would be engaging in a useless gesture of authorizing the President to act but not authorizing funds to accomplish that act.

This office has consistently taken the position that language specifically authorizing appropriations is unnecessary to authorize the appropriation of funds to carry out any legislative program enacted by the Congress. The same position is taken by Mr. Reed Dickerson in his book on *Legislative Drafting*:

> § 9.2. Provisions affecting appropriations. In a bill setting up a Federal program it is unnecessary to include a provision that expressly authorizes Congress to appropriate money for the purpose, unless the provision is to name a specific amount or there is another special reason for including it. As an authorization, the provision is unnecessary because by prescribing or authorizing an action Congress impliedly authorizes the necessary appropriation. If such a provision has any effect, it can only be restrictive. Thus, if an existing provision authorizes a specific amount, the appropriation of a larger amount would be subject to a point of order.
>
> If it is desirable in a special case that Congress keep a year-to-year check on the expenditures for a particular program, the draftsman may include a watch-dog provi-

sion. With a provision that action must be "within funds specifically appropriated for the purpose," no money may be spent for the named purpose unless it has been so earmarked by Congress in the appropriations for that fiscal year.

Your attention is also invited to the fact that the executive branch looked upon section 501 as an authorization for the appropriation of funds. On page 76 of the Budget Appendix for fiscal year 1972 the following explanation for a military assistance budget item appears:

This account was created to fund credit sales to Israel authorized by section 501 of the Defense Procurement Act of 1970. Since the Foreign Military Sales Act has not yet been enacted and credits for Israel were urgently required, Congress enacted the separate authorization. The $500 million appropriated in the Supplemental Appropriations Act, 1971, is shown in this account. No request is being made in this account for 1972 since funds for Israel are included in the regular foreign military credit sales account.

For the foregoing reasons I believe that section 501 of Public Law 91-441 constitutes an authorization for the appropriation of funds.

HUGH C. EVANS,
Senior Counsel.

NOVEMBER 22, 1971.

Mr. JACKSON. I would like to point out, Mr. President, as I did a moment ago, that when section 501 was up for debate on September 1, 1970, the distinguished Senator from Arkansas (Mr. FULBRIGHT) made his case against section 501 on this basis:

To give an open-ended authorization without any ceiling whatever, I think, is unprecedented for domestic or foreign programs.

Mr. FULBRIGHT. Mr. President, I said authorization to transfer. I do not believe I used the words "authorization to appropriate funds." If I did, it was certainly inadvertently. It was merely an authorization to transfer, which it says in section 501.

Mr. JACKSON. The Senator put the question to me at the time. I will go back and quote from the RECORD.

This is Senator FULBRIGHT:

Does the Senator know of any precedent in which Congress or the Senate has ever authorized an unlimited appropriation, as this amendment does, for any nation in the world?

And my answer was:

I cannot cite a specific precedent.

I would say that the U.S. Senate adjudicated this question. If there ever was a case where the legislative history was laid before the Senate and voted upon, it was on the particular question now being raised.

Mr. FULBRIGHT. I have read a part of it. It was just handed to me. This says that it is an implied authorization. There is no doubt the language is quite like it. It was an authorization to transfer, and it was unlimited, no limit whatever. I was making the point that it was without limit and it could have been any amount. It was clear that there was subsequently enacted a prohibition against appropriations without an authorization. And one of the reasons I proposed that provision was to insert clear and specific language to try to stop this kind of circumvention. And that provision became law in January of this year.

There is a double meaning shifting back and forth on this word authorization.

Mr. JACKSON. Mr. President, the Senator not only used the word "authorization," but he also used the words appropriation when he said:—"has ever authorized an unlimited appropriation."

It is very clear that this Senate decided the question. After all, this was the main thrust of the debate, and the Senate voted 87 to 7 to say that this particular section should be approved.

The objection to section 501 was that it was an unlimited authorization for appropriation. Of course, the answer is that the appropriations process controls that. However, running through the whole debate we dealt with this issue. I can go on further in the debate, again quoting:

Mr. FULBRIGHT. I think this is an unlimited authorization. It could be $10 billion if they wish. . . .

Mr. FULBRIGHT. That is correct, unlimited authorization to transfer planes.

Mr. JACKSON. I mention that only to point out that the Senate—and the Senate must rely on its own precedents—had that question before it. And the Senate voted overwhelmingly to sustain it. And on top of all of that, without taking any more time here—and I have placed it in the RECORD—the legislative counsel of the Senate has said that this is an authorization for an appropriation.

Together with the adjudication of the Senate earlier and the ruling now of the legislative counsel in which he relies heavily on the legislative history, I think it is clear that section 501 is, in fact, an authorization for appropriations, and the magic words "an authorization of appropriations"—which is language used from time to time—is not necessary.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, it seems to me very clear that the executive department itself has considered that this is an authorization and used it so. That is what the opinion says, in the budget and in the appropriation made in January 1971. Further, Mr. President, we are accustomed to authorizations without a specific amount. The law can make open authorizations, which this does. It seems to me what is conclusive about this matter is the last sentence of section 501 which states:

The authority contained in the second sentence of this section shall expire September 30, 1972.

If it meant nothing but an expression of policy, what was to expire?

Section 501 also states:

In order to restore and maintain the military balance in the Middle East by furnishing to Israel the means of providing for its own security, the President is authorized to transfer to Israel, by sale, credit sale, or guaranty, such aircraft, and equipment appropriate to use, maintain, and protect such aircraft, or may be necessary to counteract any past, present or future increased military assistance provided to other countries of the Middle East.

At the time this section was passed we were awaiting a foreign aid bill that was bogged down, just as we are now awaiting a foreign aid bill which may be bogged down.

So we gave authority to proceed as to aircraft, although many other military supplies in the Military Sales Act are not referred to in section 501.

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

Mr. JAVITS. I yield myself 30 additional seconds.

That is why when we discussed the question of duplication we made clear we would not duplicate between this and the Foreign Military Sales Act in the same material, for the same nature of supplies.

Mr. President, for those reasons, I believe the point of order should be overruled.

Mr. FULBRIGHT. Mr. President, will the Senator from Louisiana yield to me for 5 minutes?

Mr. ELLENDER. I yield 5 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, with respect to the play on words of "authority," of course, there is authority to transfer in the words of section 501. It referred to the authority to transfer planes. This is not authority to appropriate in the sense that the Senator has used it. The Senator said the Executive considered it as such. If that is true why did they request $300 million for Israel under the foreign military sales program, which we have specifically earmarked in the bill? It is about the only country I can think of with sufficient influence to get funds earmarked. Other countries that are contemplated to receive credit under that program take their chances.

The administration says: "We intend to give Greece and Turkey so much." But this money for Israel is earmarked by our bill. If the executive branch thought that the amendment of last year was sufficient authority I do not know why they did not submit a request for an appropriation under it.

But I emphasize that subsequent to action on the amendment by the Senator from Washington (Mr. JACKSON) last year there was enacted into law section 10 of the Foreign Military Sales Act Amendments of 1971, Public Law 91-672, which was approved January 12, 1971. What could be clearer than this provision? Obviously it was intended to prevent a repetition of the kind of thing that took place last year. It states:

Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales) shall be available for obligation or expenditure.

We had in mind specifically the kind of procedure involved in the amendment before us today.

I did not make a point of order last year. I simply asked that it be held in abeyance until we saw what happened in the conference on the military sales bill because it was not presented in an orderly manner or in accordance with

procedures of the Senate. That is what I had in mind.

I repeat this language to which I have referred:

Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales)—shall be available for obligation or expenditure—

(1) Unless the appropriation thereof has been previously authorized by law.

I think it is quite clear that what would be undermined here is the procedures of the Senate. All that vote meant last year, and it was not based strictly on the point of order that is now raised, was that it proved the State of Israel has great support in the Senate.

I repeat that I believe the administration view of how to bring peace to the Middle East is far wiser than that of the supporters of this amendment. The administration does not want to perpetuate an arms race in the Middle East. They hope for a balance that will bring about a negotiated settlement rather than another war which would be won, no doubt, as easily as was the 3 day war that they won in 1967. That took much less than that, actually, to demolish the defenses of Egypt.

There is no question they could do it again. The question is: Is it in the interest of our long term security and their long term security? That is what we are doing here. We would be interfering with the administration's efforts in this matter and we would be doing it in violation of the rules of the Senate and the law.

If this amendment went to committee it could be discussed and considered. The administration's testimony would be heard. I do not know what the result would be. At least it would be in accordance with the rules and principles of the Senate and the way we legislate.

This is about the only instance I know of in which a foreign country has so much influence it can subvert the rules of the Senate, not once but twice. There is no doubt it will get whatever it needs.

Certainly, this administration cannot be accused of being anti-Semitic. Just look back and see what they have gotten. The President gave them $500 million last year. $500 million for a country with 3 million people is a lot of money. Per capita, no country in the world receives as much from this country as Israel. It has not been mistreated. Neither this administration nor preceding administrations have mistreated Israel in the matter of money.

If the Senate does not sustain this point of order we will say whenever we feel like it we will forget about authorizations and appropriating processes and if we have enough friends we will get enough money for our particular projects.

Many of us have been concerned about establishing a reputation of influence and responsibility for the Senate in other capacities. If the Senate does this it will remove any substance from the argument that the Senate is a responsible body and that it should have a greater role in the formulation of foreign policy. If we vote this procedure, I am not sure I could urge others to give greater power to the Senate because I think it is irresponsible in ignoring its own rules and the law already passed.

Mr. JAVITS. Mr. President, in contesting the desirability of passing this amendment on the grounds of whether it will or it will not produce peace in the Middle East, I join my friend, the Senator from Arkansas. I have one view and he has another view. But pinning this on the point of order of some irregularity of procedure, I am sorry but I cannot accept that.

It seems to me that section 501 is clear. It not only uses the word "transfer" but it also states "transfer to Israel, by sale, credit sale, or guaranty."

Mr. President, that does not imply some kind of transfer which is divorced from authority. That is authority. So if the Senator from Arkansas differs from my view on his own substantive grounds, fine. We should vote on that ground.

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

Mr. JAVITS. Mr. President, I yield myself 1 additional minute so that I may yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I point out to my colleague from New York that if this did not contemplate an appropriation it is obvious the only other transfers we would be transferring would be first-line equipment to Israel. That was not the case. The military sales program has always been backed up with an appropriation. This is the same language that has been used for military sales to all countries. There is no dispute about that. The record and the precedents are clear. This is the language we used when we extend capital. We can talk about giving Israel $500 million.

That is why there is a distinction here between an appropriation without any strings attached and an extension of credit. We could not carry out the Military Sales Act, from which the language of section 501 is copied, unless there were an authorization to back it up. That is the rationale. It is as clear as anything can be. No one raised this question before. It went through the Senate by a vote of 87 to 7 after the question was raised whether there should be this kind of appropriation with the authorization. The Senate answered in the affirmative.

Mr. JAVITS. Mr. President, is there any time left?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. JAVITS. I am prepared to yield back my time.

Mr. ELLENDER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. ELLENDER. There is nothing else I can add except to emphasize, as I stated awhile ago, that there is positively no authorization for this. Even agreeing to what the Senator from Washington stated about what the Senate did last year, since that time, in order to prevent anything from happening as happened before, the Senate went on record, I repeat, and passed the Foreign Military Sales Act of 1971 wherein it was stated in section 10(a) that:

Notwithstanding any provision of law enacted before the date of the enactment of this section, no money appropriated for foreign assistance shall be available for obligation or expenditure unless the appropriation thereof has been previously authorized by law.

That has not been done.

I yield back the rest of my time.

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from Washington.

Mr. JACKSON. Mr. President, I do not want to belabor this point, but the whole question is whether it is authorized by law. I think it is very clear that it was authorized by law in 1970, so that the act passed on January 12, 1971, which requires that it previously be authorized by law, has not changed the argument here at all, because it was authorized by law in 1970, and the statute that has been relied upon does not in anywise change, repeal by implication, or in any other way, the authorization that the Congress approved in section 501 of the Defense Procurement Act of 1971.

Mr. MATHIAS. Mr. President, I wish to express my support for the amendment offered by the Senator from Washington (Mr. JACKSON). It was with deep dismay that I heard the remark of President Anwar Sadat of Egypt earlier this week in which, in effect, he told his country that war with Israel was inevitable. Mr. President, I believe that every Member of this Chamber fervently hopes President Sadat's pessimistic prediction proves false. It is essential, however, that this country, in its efforts to restrain hostilities by withholding military arms to Israel, not be guilty of creating an imbalance in the Middle East situation—one that might embolden one side to unleash an attack. Briefly put, it is essential that we release to Israel the aircraft and other equipment that is necessary to a credible defense.

Mr. President, this country maintains a far more difficult position toward the Middle East than does the Soviet Union, for we try to seek an accommodation between the two sides. The Soviet Union, on the other hand, is eager to "keep the pot boiling" in order to make possible the continued expansion of the Soviet presence in the eastern Mediterranean. The existence of some 20,000 Soviet military personnel in Egypt, sophisticated Soviet missiles fired by Soviet teams, and Soviet-flown aircraft are all evidences of her intentions in this corner of the world.

Sad as this escalation is to the hopes we had maintained for an early accommodation, we dare not continue any longer to permit this imbalance to grow. Accordingly, I shall add my vote to the amendment Senator JACKSON has proposed for the release of aircraft and other equipment for Israel as authorized by Public Law 91-441.

Mr. TUNNEY. Mr. President, in the past several days, the world has listened to President Sadat's statements that efforts at achieving peace have failed and that "there is nothing left for us but the battle."

Egypt's armed forces were said to be in a state of standby alert and leaves were reported canceled in the wake of President Sadat's declaration that he

had decided that there was no alternative to fighting.

Mr. President, Mr. Sadat's statements have been made as the United States has continued to withhold Phantom jets from Israel and after the Soviet Union has continued to pour arms and equipment into Egypt.

Some interim settlement is essential. Both Egypt and Israel must make some accommodations to the other and work toward obtaining peace in the explosive region in which they find themselves.

But, in the meantime, it is irresponsible for the Nixon administration to continue to refuse to Israel the Phantom jets which she so desperately needs to maintain for her own survival and a true balance of power in the Middle East.

Toward that end, I shall support the Jackson amendment to the defense appropriation bill, which I suggest is a logical next step to Senate Resolution 177, introduced by 78 Senators, urging immediate credit sales of Phantom jets to Israel.

The immediate sale and delivery of those planes is the best protection we can have—at this critical moment in the Middle East—that war between Egypt and Israel can be averted.

Mr. MUSKIE. Mr. President, I strongly support the amendment to provide $500 million for military sales and credits to Israel. I do so because I believe that additional assistance to Israel at this time is required to maintain the balance of power and peace in the Middle East.

In recent days there has been an atmosphere of intensified rhetoric combined with growing discouragement over prospects for a peaceful settlement. In such circumstances, continued stability depends more than ever on a secure balance of power between rival groups. Yet, because of the administration's strategy of attempting to gain political leverage over Israel by withholding shipments of Phantom jet aircraft, the military balance has been shifting during the last year against Israel. There is a growing threat that Egypt might perceive, in an intense crisis, a margin of military strength that could tip the balance of decision in favor of war. We must not permit that to occur.

While we continue to withhold needed aircraft from Israel, the State Department can only issue protests to the Russians over the latest shipment of aircraft to Egypt—up to 10 additional subsonic TU–16 Badgers which may be capable of firing sophisticated air-to-ground missiles. The Soviets show no signs of stopping the flow of arms into the Middle East.

In these circumstances, I think we must act to reinforce Israeli military strength. The $300,000,000 in credit sales contained in the military assistance bill may not be adequate—and even this authorization may be facing great difficulty before it can be enacted into law.

I therefore support this amendment to appropriate $500,000,000, including $250,000,000 for F–4 Phantom aircraft, under the previous authorization contained in section 501 of the Defense Procurement Act of 1970. I believe we must act to redress the balance of power—and save the peace—in the Middle East.

Mr. THURMOND. Mr. President, amendment No. 750 to the pending defense bill, offered by the distinguished Senator from Washington (Mr. JACKSON) is needed if this country is to aid Israel in offsetting the Soviet arms buildup of Egypt.

The amendment would provide an additional $500 million in credits to Israel to finance essential military equipment and F–4 Phantom jet fighters.

One way to preserve peace in the Middle East is to aid Israel to the extent that Egypt does not gain a military advantage. Just recently the Soviets escalated the arms balance in this area by providing Egypt with bombers.

The security of Israel and America's well-being in the Middle East must be maintained through additional arms shipments when needed. This amendment will provide the President with the tools to preserve the balance of power if and when he deems it necessary.

Passage of this amendment would also indicate strong support of Israel by the Senate. The deterrent effect could be important as Egypt continues to move closer each day to launching attacks against Israel.

Mr. BAYH. Mr. President, for the past 15 months the Nixon administration has played a delaying game on Israeli requests for urgently needed military assistance credits—and I emphasize the term "credits" because this is not a foreign aid giveaway. During the same period, the Soviet Union has continued to supply to Egypt the latest and most sophisticated weapons in its arsenal, including self-propelled SA–4 and SA–6 missiles, Sukhoi 11's, Mig–23's, and Badger bombers.

As a result of our delays and steady Soviet shipments, Egypt now has more than twice as many aircraft as Israel—and even more critical, strategically, it has three times as many supersonic planes. Clearly, the precarious military balance of power in the Middle East, which previous administrations have worked so hard to preserve, is shifting toward Egypt. Such a shift, I fear, is at the heart of President Sadat's recent belligerent statements.

Now is the time for the United States to act to redress that imbalance because a strong and secure Israel is the best deterrent to renewed hostilities in the Middle East.

Mr. President, last September I voted against an attempt to delete the $500-million authorization for military credits to Israel that is now law. That authority still exists. What this amendment seeks to do is to fully fund that authorization so that desperately needed Phantoms and other items can be made available to Israel once again.

The sentiment of Congress on this matter was made clear the other day when 78 of us joined in sponsoring Senate Resolution 177, urging the President to make Phantom jets available to Israel—now.

Some have argued that this amendment is unnecessary in view of the $300-million authorization in the original foreign aid bill. But there is no foreign aid bill now and there may not be one for quite some time. In addition, that $300-million authorization falls short of what Israel needs in the way of Phantoms and other military hardware. The Phantom jets alone will cost at least $250 million. So what is needed is both a larger appropriation and an immediate one.

Mr. KENNEDY. Mr. President, I rise to support the amendment offered by the Senator from Washington to the Defense appropriations bill to appropriate funds to meet the security needs of the Government of Israel.

This is the final step available to the Senate to demonstrate our determination to assure Israel the means necessary to defend itself. It follows a long series of attempts to impress upon this administration the view of the Senate that the military and political balance of power in the Mideast required additional supplies of Phantom jets to the Government of Israel.

On May 28, 1970, 76 Senators sent a letter to the President on this subject. On July 30, 1970, 73 Senators sent a letter to the President expressing our concern over the shifts in the balance of power.

Last year, specific open-ended authorization for military credit sales to Israel was approved by 87 Senators in the 1970 Defense Procurement Act. And only last month 78 Senators introduced a resolution again urging the sale of Phantom jets to Israel.

But despite these expressions of concern, the administration has refused to meet Israeli requests for military assistance to offset the heightened Soviet shipments.

Now I believe this amendment provides us with a vehicle to mandate the sale of Phantom jets which Israel requires for its defense. It would provide $500 million to finance military credit sales, including $250 million specifically earmarked for Phantom jets.

I believe that the security of Israel, and peace in the Middle East depend on Israel maintaining sufficient military force to dissuade any effort by Arab governments to alter the current situation through force of arms.

The best hope that we have for a final negotiated settlement is the belief on the part of the Arabs that military action is a futile road for them to follow in seeking to revise the results of the 1967 war. They must recognize that alterations in boundaries and a general settlement of the issues in dispute can only come at the bargaining table.

For that reason, I have joined in the efforts of other Senators to press the administration to respond to Israeli requests for additional military equipment.

It perhaps should be noted that the military balance of power in the Middle East has shifted drastically in the past 4 years as the Soviet Union has shipped substantial quantities of supersonic aircraft, tanks, and Soviet pilots and advisers to Egypt.

The most recent figures supplied by

the congressional research service show the Egyptian force contains 466 supersonic aircraft, including 156 Soviet piloted jets, compared to the 150-plane Israeli force.

And it should be clearly understood that the Soviet jet deliveries to Egypt include the latest Mig–23 Foxbat jets which are considered by most observers as the most potent jet fighters.

It is in that context that the request of Israel for Phantom jets must be evaluated. The $250 million now in the amendment would provide sufficient funds to meet the requests of the Israel Government. And I believe it would permit Israel to maintain parity in the military balance of power in the Middle East.

Just as important in my mind, Mr. President, is the need at this juncture in the Mideast situation, to provide a reaffirmation of U.S. commitment to the security of Israel. The recent saber rattling statements of the Government of Egypt require some response from the United States to indicate unequivocally the U.S. commitment and the U.S. concern.

Therefore, Mr. President, for these reasons, I strongly urge the Senate to approve this amendment.

Mr. SCOTT. Mr. President. I rise in support of the Jackson amendment appropriating additional funds for the procurement of more F–4 Phantom jets by the Israeli Government.

Just this morning at breakfast with President Nixon, this whole matter was discussed very thoroughly.

President Nixon told me that he was constantly reviewing the situation and assured me that the balance of forces in the Middle East would be maintained at all times.

I am confident that the adoption of the Jackson amendment will help the President keep that commitment.

Mr. PERCY. Mr. President, in voting to make it possible for Israel to purchase aircraft and other military equipment, I feel we are making an important contribution to peace in the Middle East. No action would so undermine the peace as to deny Israel its ability to maintain the military balance which serves as a deterrent to war.

The sum of money seems large, but these are sales, not aid, and Israel has never defaulted on its debt payments. Moreover, this money, to keep the peace in the Middle East, is only a small fraction of what is spent for war in Southeast Asia.

I firmly believe that the amendment is in our national interest and in the interest of peace. I support it enthusiastically.

Mr. GURNEY. Mr. President, the pending amendment takes on special importance coming as it does this week, for once more the drums of war have begun to sound in the Middle East. President Sadat of Egypt has announced his intention to interrupt the present semi-peaceful status quo and lead his nation into battle once again.

His boldness cannot be explained in terms of historical perspective. For past military ventures on the part of Egypt have consistently been doomed to failure. Rather his boldness is explained by the undeniable fact that militarily Egypt, and much of the Arab world, has become an outpost of the Russian Bear.

President Sadat has a much better situation militarily than his predecessor had in 1967. In addition to other Russian military hardware, he has the fastest, most agile, military fighter plane in the world in the Mig–23. With thousands of Russian advisers and Russian pilots in Egypt, this nation has taken the position that the Soviet Union would discourage that country and other Arab nations in which they have influence from participating in another reckless military adventure. It has, however, become increasingly clear that this analysis has been borne more from wishful thinking than from a concrete assessment of the realities of the situation.

That in the eyes of Egypt, and the other Arab States who have had their defense bolstered with massive intrusions of Soviet arms and personnel that seem now to believe that they have military superiority over Israel. Israel during the same period has been denied adequate military supplies from nations who have been her suppliers. The Arab nations such as Egypt, therefore, once again they are flexing their muscles in anticipation of the final push of Israelis into the sea.

If once again war comes to the Middle East it will prove a discredit to this Nation. If our closest friend in that area is in fact defeated as a result of inaction on the part of the United States, that defeat will only bring this Nation shame.

Mr. President, I respectfully submit that the time for delay in this extremely sensitive area has long since passed. We should vote approval of this amendment forthwith and enable a good friend and ally of ours, the state of Israel, to obtain the necessary aircraft to preserve the military balance of power in the sensitive area of the Middle East.

For while the Arab nations such as Egypt have been successful in obtaining military hardware, including the Mig–23, to shore up their arsenals and make them a potent military force, Israel has consistently been refused permission by the Western Nations to purchase adequate amounts of military hardware for its defense.

Mr. President, there are two factors to be considered when one discusses the adequacy of Israel's military hardware. The first factor to consider is whether or not the hardware is in fact adequate; in this case adequate to ensure that Israel would be able to defend herself against her enemies.

The second factor to be considered, and one that is perhaps more important in the situation under discussion, is the perceived adequacy of that military hardware. This is the more important question, how strong Israel's posture appears from the vantage point of her enemies. It is clear Israel needs only one item of military hardware to enable her to defend herself, and that is sufficient jet planes to stand off her enemies. With adequate air defense she can survive, without it she cannot.

The United States is her only source of jet fighters. That is why the passage of this amendment is so important.

Mr. ELLENDER. Mr. President, I ask for the yeas and nays.

Mr. JACKSON. Mr. President, the yeas and nays on which? On the amendment?

Mr. ELLENDER. No. On the point of order.

The PRESIDING OFFICER. There has been no ruling up to this time.

UNANIMOUS-CONSENT REQUEST

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, at the direction of the distinguished majority leader, and having cleared this request with the distinguished assistant Republican leader, the distinguished manager of the bill, the distinguished Senator from Mississippi (Mr. STENNIS), and the distinguished ranking Republican member of the Appropriations Committee, I ask unanimous consent that upon final disposition of the pending amendment by Mr. JACKSON, the Senate proceed to the consideration of the committee amendment, the so-called NATO amendment, which appears at the bottom of page 48 of the bill, and that time thereon be limited to 80 minutes, to be equally divided between the distinguished manager of the bill and the minority leader or his designee; that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided between the mover of such and the distinguished minority leader or his designee.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ELLENDER. Mr. President, I understood that the Chair had already stated that the question before the Senate would be whether or not there is authority for this action.

The PRESIDING OFFICER. The Chair will make its statement at this point.

PRIVILEGE OF THE FLOOR

Mr. JACKSON. Mr. President, may I ask to make a unanimous consent request?

Mr. President, I ask unanimous consent that Richard Perle, of my staff, be permitted to be on the floor during the vote.

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

RULING POINT OF ORDER

The PRESIDING OFFICER (Mr. BROCK). In response to the point of order raised by the Senator from Louisiana, the Chair is aware and has carefully studied the memorandum of the senior legislative counsel supporting the contention

that section 501 is authorization for an appropriation such as this. However, the Chair would point out that the point of order is addressed to an interpretation of the law.

The Chair knows of no provision or precedent authorizing the Presiding Officer to interpret the law.

Under rule XX, paragraph 2, the Chair now submits the question to the Senate. The question is: Does the Senate sustain the point of order that the funds contained in the amendment are not authorized by section 501 of Public Law 91-441?

Mr. ELLENDER. Mr. President, I ask for the yeas and nays.

Mr. FULBRIGHT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCOTT. If one wishes to support the position taken by the Senator from Washington, the vote would be "nay," and if one wishes to sustain the point of order raised by the Senator from Louisiana, the vote would be "yea." Is that correct?

The PRESIDING OFFICER. The Senator has correctly stated the situation. A vote to sustain the point of order of the Senator from Louisiana would be a "yea" vote.

Mr. ELLENDER. Mr. President, did I understand the Chair to state that there was no precedent for this as one reason why the Chair was submitting the question to the Senate?

The PRESIDING OFFICER. The Chair is not authorized to interpret the law. That is the statement of the Chair.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Hampshire (Mr. COTTON) is necessarily absent.

The result was announced—yeas 14, nays 81, as follows:

[No. 390 Leg.]

YEAS—14

Aiken	Hart	Smith
Bellmon	Hatfield	Stafford
Church	Hughes	Stennis
Ellender	Long	Young
Fulbright	Mansfield	

NAYS—81

Allen	Case	Gurney
Allott	Chiles	Hansen
Baker	Cook	Harris
Bayh	Cooper	Hollings
Beall	Cranston	Hruska
Bennett	Curtis	Humphrey
Bentsen	Dole	Inouye
Bible	Dominick	Jackson
Boggs	Eagleton	Javits
Brock	Ervin	Jordan, N.C.
Brooke	Fannin	Jordan, Idaho
Buckley	Fong	Kennedy
Burdick	Gambrell	Magnuson
Byrd, Va.	Goldwater	Mathias
Byrd, W. Va.	Gravel	McClellan
Cannon	Griffin	McGee
McGovern	Pearson	Spong
McIntyre	Pell	Stevens
Metcalf	Percy	Stevenson
Miller	Proxmire	Symington
Mondale	Randolph	Taft
Montoya	Ribicoff	Talmadge
Moss	Roth	Thurmond
Muskie	Saxbe	Tower
Nelson	Schweiker	Tunney
Packwood	Scott	Weicker
Pastore	Sparkman	Williams

NOT VOTING—5

Anderson	Eastland	Mundt
Cotton	Hartke	

So the point of order was not sustained.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Mississippi (Mr. EASTLAND) and the Senator from Indiana (Mr. HARTKE), are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. HARTKE) and the Senator from Mississippi (Mr. EASTLAND), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Hampshire (Mr. COTTON) is necessarily absent.

The result was announced—yeas 82, nays 14, as follows:

[No. 391 Leg.]

YEAS—82

Allen	Fong	Nelson
Allott	Gambrell	Packwood
Anderson	Goldwater	Pastore
Baker	Gravel	Pearson
Bayh	Griffin	Pell
Beall	Gurney	Percy
Bennett	Hansen	Proxmire
Bentsen	Harris	Randolph
Bible	Hollings	Ribicoff
Boggs	Hruska	Roth
Brock	Humphrey	Saxbe
Brooke	Inouye	Schweiker
Buckley	Jackson	Scott
Burdick	Javits	Sparkman
Byrd, Va.	Jordan, N.C.	Spong
Byrd, W. Va.	Jordan, Idaho	Stafford
Cannon	Kennedy	Stevens
Case	Magnuson	Stevenson
Chiles	Mathias	Symington
Church	McClellan	Taft
Cook	McGee	Talmadge
Cranston	McGovern	Thurmond
Curtis	McIntyre	Tower
Dole	Miller	Tunney
Dominick	Mondale	Weicker
Eagleton	Montoya	Williams
Ervin	Moss	
Fannin	Muskie	

NAYS—14

Aiken	Hart	Metcalf
Bellmon	Hatfield	Smith
Cooper	Hughes	Stennis
Ellender	Long	Young
Fulbright	Mansfield	

NOT VOTING—4

Cotton	Hartke	Mundt
Eastland		

So Mr. JACKSON's amendment was agreed to.

Mr. JACKSON. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1810. An act for the relief of Dorothy G. McCarthy;

H.R. 8356. An act to make permanent the authority to pay special allowances to dependents of members of the uniformed services to offset expenses incident to their evacuation; and

H.R. 10203. An act to amend the Water Resources Research Act of 1964, to increase the authorization for water resources research institutes, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 23, 1971, he presented to the President of the United States the enrolled bill (S. 1810) for the relief of Dorothy G. McCarty.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

The Senate continued with the consideration of the bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized. The question is on agreeing to the committee amendment at the bottom of page 48.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from West Virginia is recognized. Will the Senator from West Virginia indulge the Chair while he tries to get order in the Senate?

The Senate is not in order. The Senator from West Virginia will not proceed until the Senate is in order.

The Senator from West Virginia may proceed.

Mr. BYRD of West Virginia. Mr. President, I thank the Chair. What is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the committee amendment on page 48.

Mr. BYRD of West Virginia. Mr. President, I have cleared this matter with the distinguished minority leader, the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished manager of the bill, the Senator from Louisiana (Mr. ELLENDER), the distinguished Senator from Colorado (Mr. ALLOTT), the distinguished Senator from Arizona (Mr. GOLDWATER), the distinguished Senator

from New York (Mr. JAVITS), the distinguished ranking minority member on the committee, the Senator from North Dakota (Mr. YOUNG), and the distinguished Senator from Maine (Mrs. SMITH). At the direction of the distinguished majority leader, I ask unanimous consent that on the pending amendment the time be limited to 80 minutes, to be equally divided between the distinguished manager of the bill and the minority leader or his designee; provided further that the time on any amendment in the second degree, motion or appeal—with the exception of nondebatable motions—be limited to 20 minutes, to be equally divided between the mover of such and the distinguished minority leader or his designee.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SCOTT. Mr. President, I yield myself 1 minute for the purpose of indicating that if I am not present on the floor, I have designated the Senator from Colorado (Mr. ALLOTT) to handle the time on this side.

The PRESIDING OFFICER. Who yields time? Time is running and will be equally divided. Who yields time?

Mr. ELLENDER. Mr. President, I yield myself 10 minutes.

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

Mr. ELLENDER. Mr. President, for the past 15 years some Members of the Senate, including myself, have argued that our forces in Europe should be reduced. When the authority was given by Congress to send our forces to Western Europe, I was one of the 10 or 12 who voted against sending our troops to Western Europe.

At that time that President Truman was given authority to maintain troops abroad, Western Europe was well on the way to recovery. I personally thought that to send as many as 5½ divisions to Europe was not only excessive, but was also unnecessary. The Soviet had taken control of the countries that it now occupies before the NATO agreement was formulated. Eastern Europe was turned into a buffer zone to protect Russia against attack.

Mr. President, when our troops were first sent to Western Europe, there was an understanding that our allies would furnish x number of divisions on their own, and we were to furnish 5½.

Mr. President, we complied with the agreement as to the number of divisions. We fulfilled our promises as to men and materiel. Our allies did not. There is not a NATO commander who represented us in Europe who has said that our allies were doing their share under the NATO agreement. On the contrary, we have heard admissions from them as to the lack of meaningful contributions every year that the appropriation came up for a continuation of our presence in Western Europe.

A great deal of evidence was presented to the committee to indicate that our allies were not complying with their agreement. The divisions that they had agreed to furnish were not at hand in a combat-ready condition.

I can well recall receiving in early 1960 a top secret document from the Defense Department. When I read the actual facts, Mr. President, I was astounded to learn how little help our American troops could have relied upon if they had been faced with attack. After studying that document in 1960, I made a special tour of the NATO countries of Western Europe. There, on the scene, I found that the actual facts, as presented to me on a secret basis, were absolutely correct.

The number of troops available for combat was far below the number these NATO allies were supposed to have in the field.

When I came back to Washington, I reported my findings to the committee. My findings indicated that if the Russians had struck in July, 1960, the only divisions ready to meet the foe would have been our five and one-half divisions and a Canadian brigade. The rest of the so-called divisions were poorly equipped. Some of them were only 30 percent of strength. Others were made up entirely of reservists, and were available for action on paper only.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. ELLENDER. Mr. President, I yield myself 5 additional minutes.

Mr. SCOTT. Mr. President, will the Senator yield to permit me to make a brief unanimous consent request?

Mr. ELLENDER. I yield, provided that the time not be charged to me.

Mr. SCOTT. Certainly.

Mr. President, I ask unanimous consent to withdraw my designation of time in support of the motion to strike and that the time heretofore allocated to me and the Senator from Colorado (Mr. ALLOTT) be allocated to the distinguished Senator from Mississippi, the chairman of the Subcommittee (Mr. STENNIS).

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 additional minutes.

Mr. ELLENDER. To continue, Mr. President, I returned to Washington and reported that information to the committee. On the strength of conditions that I found, the amount of money made available for Western Europe was, as I recall, cut back substantially.

Since that time, to every Secretary of Defense who appeared before the committee, I invariably said, "I am informed that our allies are not furnishing the number of troops that they should. They are not being armed as they should. Their military hardware is poor and not equal to ours. In short, they are not bearing their share of the load. What are you going to do about it?"

Invariably, the answer was, "Well, we will try to make them come up with more assistance."

The year before last, the question was again posed to Mr. Laird, when he first became Secretary of Defense. I pointed out that for years Western Europe had found shelter under the military umbrella provided by the United States, and had used their resources, and ours, to develop their own economies. Again, the answer was, "We will try to get our allies to furnish more assistance and provide more help."

A short time ago we were told that our allies had made arrangements to give a certain amount of money by way of an additional contribution. Then we were told that it was not money they would provide to help sustain our troops; it was not money they would appropriate in order to increase their military strengths. It was a promise to furnish just under $1 billion over a period of 5 years for NATO infrastructure in Western Europe. In other words, the expenditures would go only to benefit themselves.

As far as I am personally concerned, I have tried in every way I know to reduce our expenses in Western Europe. I have tried in every way I could to have our Western European allies assist us on a meaningful basis, but all in vain. I want to say, Mr. President, that last year, 10 years after my 1960 visit, I returned to Western Europe. I visited most of the NATO countries. There was very little difference to what I had found in 1960, except in the case of Germany.

I say it is high time for us to reduce the number of soldiers we have there now, particularly when we are getting no help abroad with the economic problems we now face.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. STENNIS. Mr. President, I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. I am going to be as brief as I can.

First, Mr. President, without going into detail, this proposed reduction will actually save very little, if any, money. These troops will be brought home and still be in the service, still be entitled to all the allowances and everything that goes with it, housing, transportation, and other benefits. I could discuss that at length, but I say on my responsibility that this will save very little money.

On the question of the balance of payments, the arrangement we have with West Germany cancels out most of that negative effect on our economy.

Now just a word about the number of troops in Europe. This amendment, to which I speak in opposition, provides that we shall reduce that number by June 15 and there were no funds available for the support of other U.S. personnel in Europe. What is Europe? The most accurate count I can get of all the troops we have on the mainland of Western Europe, and England, and another island included there, does not run to these 313,000 or 316,000 troops we talk about. Instead, all those in that entire area, including 30,000 in the Navy, with the ordinary reductions, would be 313,000 next June. So if we are talking about reducing from 310,000 or 313,000—and I will not argue that difference particu-

larly—we are bound to be counting in the 30,000 that we have in the 6th Fleet and those attached to our naval forces in the Mediterranean—approximately 30,000.

I do not think anyone wants us to diminish the strength of the fleet. It is there not only in connection with NATO but in connection with the situation in the Middle East, in which the Senate has overwhelmingly voted additional support for Israel.

Passing on to another point, we have a policy of withdrawal in the Pacific, not only in the war area of Indochina but in other areas. It is well known, and fairly progressive and fairly successful. However, you cannot do these things by 8 o'clock tomorrow morning. I favor some withdrawal. I have said it before, and I say again with emphasis, I favor some withdrawal of the number of troops in Europe, but I think that to have an orderly and effective withdrawal which is safe for us and for others, there ought to be negotiations, some attempt at an understanding. Then, if that fails, notice can be given of the beginning of a withdrawal, say 12 months from the time of that notice. Then start on a modest basis and progressively move forward. That is what I think.

We had this question up this year, and this is the main point I want to make. By the way, I have served notice that I favor any withdrawal program if it is orderly, and I repeat that.

On May 19 of this year, just 6 short months ago plus 4 days, by a vote of 36 to 61, the Senate refused to go along with the idea of making reductions during this calendar year. What kind of signal is this to the Chief Executive of this Nation, the man charged with the responsibility of being our spokesman and negotiator and the chief of our foreign policy? Maybe he is the wrong President—I am not arguing that. Maybe he should not have been elected—I am not arguing that. But he is the President. We have to have a President. When he is no longer there, we will have another President. The principle is the same. I think he is trying hard.

We gave him an unmistakable signal to go on with his negotiations, to go on with his efforts to try to get a mutuality of withdrawal with the Warsaw Pact countries, to go on with his efforts to get some help from our allies.

Certainly the implication was that we would leave him free to continue that. What are we doing here now? Before the ink is dry on what we did just a short time ago, we are making a reduction. What will our allies think? What will the Warsaw Pact countries think? We are on dangerous ground, in almost the last gasp of this session, doing this kind of thing.

I have evidence here. I said I wanted the best evidence we could get from original sources. Here is a letter dated November 22 from the White House, signed by the President of the United States, addressed to me, because I told them I wanted to know:

This week the Senate will once again consider a proposal to make a substantial unilateral reduction in United States Armed Forces maintained in Europe for the common defense. I believe passage of such a measure would be a great mistake.

The manifest congressional concern for a more equitable sharing of defense burdens in Europe and elsewhere has been a significant factor in the formulation of our national policy. We are currently in the final stages of talks to establish improved arrangements for the sharing of the defense burden in Europe, including an agreement with West Germany to offset nearly two billion dollars of United States costs, and the second phase of the European Defense Improvement Program, to be finalized at the NATO meeting beginning December 8.

That has to be finalized in a few days.

In the area of East-West relations, we expect that Mr. Brosio will be received in Moscow next week to begin discussions on basic issues in Mutual Balanced Force Reductions. At the same time, the Berlin negotiations have entered the final and most difficult stage. As you know, we are also making significant progress in the SALT negotiations.

Passage of the proposed troop cut would, with one stroke, diminish Western military capability in Europe and signal to friend and adversary alike a disarray and weakness of purpose in the American Government.

We are now preparing to undertake vitally important new initiatives for peace in two great capitals of the world. If these initiatives are to gain positive results in the months and years ahead, I must be able to rely on the firm support and the substantial and creative contribution of a bipartisan Congress.

I believe that this ill-timed measure should be rejected, and that our efforts should be directed toward the positive tasks and the great opportunities for achieving a real peace that lie before us.

That is just commonsense.

Signed by Mr. Nixon.

I think the Chief Executive is trying. He is the man who was selected by the people, and as long as he is trying, I am willing to wait a few more days, a few more months, or whatever is necessary to make this a more orderly procedure.

We are making progress in the Pacific. We are making some progress in the Atlantic area of the world. Especially since we gave this signal in the vote on May 19, I hope, just because we are disappointed in some other things, we will not backtrack and cancel the signal we gave and pull the rug out from under the chief negotiator for all America.

Mr. President, I continue with my prepared remarks:

Mr. President, section 744 of the defense appropriations bill provides that no part of the funds appropriated in that act shall be available for support of U.S. military personnel in Europe in excess of 250,000. The committee report states that the committee's action is based upon the figure of approximately 300,000 men being stationed "in Europe" and thus requiring a reduction of approximately 50,000.

In the first place, Mr. President, there are not this number of men on the European Continent. The best figures I can obtain indicate that there are only about 280,000 men actually stationed on the European Continent at the present time, even including those in Great Britain and in non-European Turkey. In order for the figure of 300,000 men to be reached it is necessary to include not only those men actually in Europe, but also those on board our naval forces of the 6th Fleet in the Mediterranean—approximately 30,000 men. Thus it is clear, Mr. President, that the figures used by the committee do not only refer to our forces in Europe itself, but the committee has taken as a basis for reductions all forces in that part of the world. Thus the first point that I want to make is that if these reductions are carried out in a balanced, across-the-board fashion they will inevitably involve some reduction in our capability to maintain stability on NATO's southern flank. Security and stability are more important today in the mid-East than ever before in light of the tensions between the Arab States and Israel, fostered by the Soviet Union's increasing involvement in that area. To make reductions in our level of forces or those shore installations in southern Europe which are associated with the 6th Fleet's operations would be particularly unwise in the present circumstances.

If our level of forces are not to be reduced, then the cuts required by section 744 must be made in either Air Force or Army personnel in Europe. Although NATO's air forces are outnumbered by Warsaw Pact forces by nearly 2 to 1, they do have certain other advantages in pilot skill and aircraft quality which creates a rough balance in airpower in that part of the world. Recently our allies agreed to spend $420 million to construct approximately 2,000 aircraft shelters and related protective facilities in Europe. The United States will provide no financial contribution in this effort, but our aircraft and personnel will, of course, use the shelters and facilities which will be built. In any potential conflict in Europe it is extremely important to be able to maintain air superiority, and I believe that a reduction at this time in U.S. tactical air forces in Europe would be unwise.

Thus if the cuts required by section 744 become law they would have to be taken almost entirely from the U.S. Army in Germany, which now totals about 190,000. Frankly, Mr. President, I believe that some reductions could be made, in time, in the number of U.S. Army troops stationed in Germany. But a unilateral reduction of about 60,000 in these forces under a legislative fiat is not the way for such reductions to be accomplished. There has been some interest expressed by the Soviet Union last May in mutual force reductions and NATO has just appointed its former Secretary General, the distinguished Mr. Manilo Brosio, to meet with Warsaw Pact representatives next week in Moscow and explore the possibilities of mutual reductions. I have no doubt, Mr. President, that the Soviets are watching and waiting to see if we will take these steps unilaterally and free them of any pressure to agree to mutual reductions.

We must always remember, Mr. President, that there are dual advantages if we can reach an agreement with the Soviet Union for mutual withdrawals from Eastern and Western Europe. Soviet

troops in Eastern Europe not only constitute a threat to our allies in the West, but they are also the garrison troops which the Soviet Union requires to subjugate the nations of Eastern Europe. The pressures for nationalism in Eastern Europe as expressed in East Germany in 1953, in Hungary in 1956, and in Czechoslovakia in 1968 are real and important.

The more Soviet troops there are in Eastern Europe the less likely it is that those nations will be able to follow their own paths in trade and in political relationships with the West. Thus it is very much in our own interest to keep pressure on the Soviet Union to relax its hold upon its Eastern Europe empire. Long-range stability in Europe can only benefit by such a relaxation.

If we take the steps to withdraw our own forces unilaterally we will lose any opportunity for a mutual withdrawal. I believe we should give the President the opportunity to proceed with these negotiations and to contribute to long-range peace and stability in Europe by negotiating mutual reductions with the Soviet Union.

Finally, Mr. President, I believe that the primary motivation of those who would make this reduction in this way at this time is an interest in economy. I want to point out, Mr. President, that this amendment as written does not save one dollar. In fact, it will result in increased expenses over the next few years and the long-range savings would be small at best. This amendment does not require or even imply that the 60,000 men to be withdrawn from Europe are to be entirely cut out of the Armed Forces. To make such a reduction in addition to the 100,000-man reduction recommended by the Armed Services Committee and enacted into law last September would be highly irresponsible and highly disruptive for the Army. I believe we can assume that these troops will not be cut out of the Armed Forces altogether, but rather withdrawn from Europe to be based in the United States.

Thus any savings that are made will not be savings in the overall cost of these forces, but only that small portion which can be attributed to their being based overseas—transportation costs, and so forth. This bill will become law half-way through this fiscal year so only about $45 million could be saved in operating costs. But the cost of moving these men and equipment back to the United States and the costs of reducing and closing the appropriate bases will run well over $40 million. In addition, it will cost extra money to construct facilities for them in the United States and, ironically, this will come at a time when we have just finally convinced the West German government to rehabilitate barracks and facilities of our troops in Europe at a cost to the Germans of over $100 million. Thus, this year, a precipitate and sudden withdrawal of this sort would actually cost us money, and this does not include the costs which we would incur later if we wish to provide the equipment necessary to insure that these troops could be redeployed rapidly to Europe in a crisis. Rapid redeployment would require us to purchase a second set of some types of heavy combat equipment to be stockpiled in Europe and such equipment for 60,000 men would cost several hundred million dollars.

I believe we should determine from these arguments, Mr. President, that reductions in our forces in Europe must be careful, deliberate, and well planned. If at all possible they should be carried out in the context of mutual reductions negotiated with the Soviets. But the kind of reduction which would be forced by section 744 of this bill under the present circumstances would be ill timed, injurious to important negotiations, and costly.

I ask unanimous consent to have the President's letter printed in the RECORD.

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

THE WHITE HOUSE,
Washington, D.C., November 22, 1971.

Hon. JOHN C. STENNIS,
U.S. Senate,
Washington, D.C.

DEAR JOHN: This week the Senate will once again consider a proposal to make a substantial unilateral reduction in United States Armed Forces maintained in Europe for the common defense. I believe passage of such a measure would be a great mistake.

The manifest congressional concern for a more equitable sharing of defense burdens in Europe and elsewhere has been a significant factor in the formation of our national policy. We are currently in the final stages of talks to establish improved arrangements for the sharing of the defense burden in Europe, including an agreement with West Germany to offset nearly two billion dollars of United States costs, and the second phase of the European Defense Improvement Program, to be finalized at the NATO meeting beginning December 8.

In the area of East-West relations, we expect that Mr. Brosio will be received in Moscow next week to begin discussions on basic issues in Mutual Balanced Force Reductions. At the same time, the Berlin negotiations have entered the final and most difficult stage. As you know, we are also making significant progress in the SALT negotiations.

Passage of the proposed troop cut would, with one stroke, diminish Western military capability in Europe and signal to friend and adversary alike a disarray and weakness of purpose in the American Government.

We are now preparing to undertake vitally important new initiatives for peace in two great capitals of the world. If these initiatives are to gain positive results in the months and years ahead, I must be able to rely on the firm support and the substantial and creative contribution of a bipartisan Congress. I believe that this ill-timed measure should be rejected, and that our efforts should be directed toward the positive tasks and the great opportunities for achieving a real peace that lie before us.

With best wishes,
Sincerely

RICHARD M. NIXON.

Mrs. SMITH. Mr. President, with the exception of the Mansfield provision, I support this bill. It is less than I would hope for, but it is a good bill.

I have spoken on this Mansfield troop reduction in Europe before. I have acknowledged that it has some merit and great popular appeal.

But again, I say this is not the way to legislate on such a vital foreign and military policy. This should be done on legislation through the legislative committees after thorough hearings. Not this way in a rider on an appropriations bill.

Mr. JACKSON. Mr. President, will the Senator yield me 5 minutes?

Mr. STENNIS. I yield 5 minutes to the Senator from Washington.

Mr. JACKSON. First of all, I want to associate myself with the remarks of the distinguished Senator from Mississippi, the able chairman of the Senate Armed Services Committee. I think he stated the case very well. There is a need here for mutual efforts to reduce forces.

Section 744 of the pending Defense Appropriations Act will have the effect of reducing unilaterally our strength in Europe by about 60,000 men as of the middle of 1972.

I believe a reduction of this magnitude within so short a period of time should result only from a larger agreement for balanced reductions of both NATO and Warsaw Pact strength in which there is a quid pro quo for our own actions.

At a time when NATO representatives are engaged in exploratory talks with the Soviets on the question of conventional force reductions, it is vitally important to reaffirm that mutuality will be the governing principle in our dealings with the Warsaw Pact. By stipulating such a major American unilateral reduction at this time the pending amendment would encourage further Soviet delay in discussing mutual reductions.

Mr. President, this body has on several occasions considered the most desirable way of resolving the unfinished European business of the Second World War. Throughout those debates, I have emphasized what a continued American troop commitment to Europe can contribute to this search for peace. For the past 25 years, our presence in Europe has been significant enough to convince the Soviets that any crisis they inspire in the NATO area would immediately have become a Soviet-American problem, not just a European one. No token American force would have been capable of demonstrating this.

The primary function of NATO's conventional forces, with their vital American component, has been to meet an emergency as effectively as possible, posing the continual threat that if the crisis grew larger, the risks of escalation would continue to grow larger with it. To perform this function, NATO forces capable of containing a sizable, though limited, attack were required. Anything less would have been a standing temtation to Soviet testing of allied resolve. These forces are still needed today for precisely the same purposes. And they will be required so long as we do not have a general European settlement which deals with the basic causes of tensions in Europe.

It is clear that an agreement on mutual reduction of conventional forces in central Europe can reduce the risks of war and point the way toward a more comprehensive political settlement. It could also open the road to a freer life for the peoples of Eastern Europe by reducing the Soviet military presence—

an oppressive force which stifles national self-expression.

Mr. President, we may well be on the verge of seeing our steady and consistent policy result in important steps toward a general European settlement. The obstacles are still great, but we have begun the process. After all these years, let us not revive Soviet hopes about the prospects for gaining a military advantage in Europe—and thereby dash our own hopes for an East-West understanding based on mutual force reductions.

On a matter as important as this, it is both prudent and wise to make our intentions in passing this legislation as clear and as unmistakable as possible. I cannot believe that any Member of the Senate wants to resolve the unfinished business of Europe by turning America's back on the Continent. The fact is that only by following the course of responsible participation can we insure that Europe remains an area of peace—instead of the cockpit for another war.

Finally, Mr. President, let me remind my colleague of Mr. Brezhnev's speech in Tiflis earlier this year, in which he indicated for the first time—the very first time that the Soviet Union has so indicated since the end of World War II—a willingness to talk about a mutual pullback of forces. How tragic it would be if we should proceed, in the midst of the preparations for those East-West talks, to move and act unilaterally on a matter that requires a mutual approach if we are going to relieve tension and if we are going to bring about a mutual, balanced pullback of forces. I think it would be a great tragedy, after all these years of western perseverance, for this country to make a unilateral move at this time on a matter that involves these mutual discussions. It would clearly indicate to the Russians that we do not have the resolve nor the willingness to stay the course, at a time when it is so important to stay the course, so that we can see a lessening of tension and the beginning of a mutual pullback of forces on both sides of the Iron Curtain.

Mr. ELLENDER. Mr. President, I yield 2 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, I believe the statement which has been made that if we unilaterally pull back from Western Europe we will adversely affect our efforts toward a mutual and balanced troop reduction does not require further explanation by me.

I think we should understand our reasons for being in Western Europe. We do not remain in Western Europe solely because we wish to help our European allies and contribute to their defense. We are there because it is in our national interest to be there, because we have pursued a foreign policy and a defense policy that holds that it is far more desirable for us to maintain our defense perimeter as far from our own shores as possible and as close to any potential enemy's shores as possible. This, basically, is why we are in Western Europe today.

There is no psychological substitute for the presence of American forces in Western Europe. Should we effect unilateral withdrawals from Western Europe, we will encourage Western European powers to make their accommodations with the Soviet Union, and those accommodations would have the increasing effect of isolating the United States, not just from a military or political standpoint, but ultimately from an economic standpoint as well.

One wise man has said that there is a danger, that indeed the trend is apparent——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. TOWER. One more minute?

Mr. STENNIS. I yield the Senator 1 additional minute.

Mr. TOWER. That there is an apparent trend that Finland will become another Latvia or another Poland, that Sweden will become another Finland, and that Norway will become another Sweden. The Russians are already encircling our northern flank. The Norwegian Sea is practically a Russian lake. They have poured ships into the Mediterranean, and are looking toward the Indian Ocean.

With this increasing presence of Soviet power and increasing military pressures on NATO, we would be very unwise indeed to attempt a unilateral withdrawal of American troops at this time.

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

Mr. ELLENDER. Mr. President, I yield 5 minutes to the distinguished Senator from Missouri.

Mr. SYMINGTON. Mr. President, first I would congratulate the able and distinguished senior Senator from Louisiana as well as a majority of the Appropriation Committee. On this subject he has been a true prophet. If we had listened to him many years ago, our economic problems would be far less than they are today.

Over 20 years ago I was sent to talk with General Eisenhower—visiting his son at West Point—about the possibilities of his going to SHAPE. That is mentioned because the late President Eisenhower was the first to make the suggestion back in 1963 that there might be a major withdrawal of troops from Europe.

Listening to the discussion this afternoon, it sounds like the same old discussion heard year after year after year: "Mañana, mañana, mañana; tomorrow we will, but we do not want to do it now. We do not want to be precipitate. We want it orderly."

Let me say to my colleagues on this floor today, if there is doubt about the fact we are running out of money, they should look at the latest facts and figures about the economy. Year after year this comes up. Year after year we say, "Tomorrow." Year after year our economy continues to deteriorate.

There are people who liked General MacArthur. I did and respected him. The general told me, in the late 1950's, that all the talk about conventional forces in Europe, whether they were a trip wire or a shield was silly; that the word which should be used "parade," that anyone who thought we could stop the enemy on the ground in Europe without utilizing nuclear weapons was very wrong.

It is on the published record that we have over 7,000 nuclear warheads in Europe, and we have many more if you count others around the rest of the world.

That is where the true strength is, not in these terribly expensive European conventional forces.

You cannot blame European countries for wanting to continue to have us support their economy, which we do with these hundreds of thousands of troops, and which I have looked at in detail in recent months. But I would ask this question today of the Senate: If we are going to spend this money abroad for what, in effect, is tradition with no true recognition of modernity in possible future warfare, where are we going to get the badly needed money for our schools, our cities, our rural areas with their serious problems?

There are four categories of voting on the floor of the Senate. The first are those who have been described as ones who can hear the farthest drum before the cry of a single hungry child. Then there is a group who can hear every child, whether he is hungry or not, before they can hear a single drum.

Then you have a third group, who say, "Nothing can happen to the almighty dollar, so we will vote for all the children and all the drums."

The time has come when we must have some priorities with respect to the way we are allocating our steadily decreasing resources, else it should be clear to everybody—that the economy of the United States could well be destroyed.

For these reasons I fully support the position of the Senator from Louisiana.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I yield 4 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, no one in this body can agree more with the idea that our troop strength and total strength in NATO should have received attention long ago. No one will agree more that they should be withdrawn. But, Mr. President, I must remind my colleagues again that, whether we like it or not, this decision rests with our President; and we cannot in a constitutional way—although we can in our moral way, in our right of expression—say to the President, "We feel that you should be doing more in this field."

The only way in the world we can control bodies overseas that have been sent there by the President is to control the amount of money we appropriate to spend for that purpose; and if we go that route, it takes years and years and years, not just days.

I can understand the great concern of the Senator from Missouri about the economy. I recall the years I have stood on this floor and pleaded with Congress not to waste money, that we have wasted it on almost every domestic enterprise in which we have engaged. Unfortunately, at the same time, the Senate has advised and consented to a great

many treaties which have committed us overseas. We are in NATO because this body voted unanimously—I cannot recall a single vote against it—when these 17 treaties were being formulated and were being advised and consented to by the Senate. I cannot recall a single vote being against them.

These are the treaties which commit us to war. Again, whether we like it or not, we have done it. Having made these commitments in the treaties, I think we are honor-bound in this country to pursue them, with the President at the same time pursuing negotiations and discussions that will lead to the reduction of our forces in NATO.

Without knowing what the President's intentions are in Moscow, I feel that certainly one of the points that will be discussed will be the possibility of reducing the power of the Warsaw Pact nations so that the NATO countries, including ourselves, can begin to scale down our operations and our costs there.

Again, this decision is in the hands of the President. While we can tell him in no unmistakable words that we would like him to be doing more about it or getting out completely, he has the constitutional right to ignore completely anything we do in this body; and I think that for the sake of unity and the perpetuation of our constitutional concepts, that is what the President should do.

I think the question is not, "Will we pull out in a hurry or will we pull out slowly?" but, "Will we retain enough strength, at the same time negotiating with other countries to reduce theirs, so that we can fulfill the treaty commitments we have with 17 countries in the North Atlantic Treaty Organization. every one of which carries us to war?"

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Colorado.

Mr. DOMINICK. I thank the Senator.

Mr. President, we are going to come to a vote on this matter soon, and I want to make the RECORD clear so far as my decision is concerned.

I supported the Senator from Montana when he submitted his resolution urging the President to withdraw a substantial number of troops from Europe. I have felt for a long period of time—and have delivered many public speeches on it—that we should have withdrawn or reduced our forces long before this, not because I was ignorant of the Russian threat—which I think is imminent—but because I felt that the European NATO allies should have taken a far stronger line for their own defense and not just relied on us.

However, having said that, I also voted against the Mansfield move to reduce it by 120,000; and I will vote against this, because I do not believe that Congress either has the power or should have the power to determine where specific troops of the Armed Forces, of which the President is Commander in Chief, should be stationed. Once we do that, we are going to have 535 generals in this body trying to determine where all the troops should be, where the weapons should be, and where they should not be.

Our power is in the power of the purse, the question of the amount of money we are willing to spend on overall defense; but the tactics of it must be determined by the Commander in Chief—the President—and the Joint Chiefs of Staff.

Mr. STENNIS. I thank the Senator.

Mr. President, I understand that the Senator from Montana desires some time.

Mr. MANSFIELD. Yes.

Mr. ELLENDER. I yield to the Senator from Montana such time as he desires.

Mr. MANSFIELD. Mr. President, as always, this has been a most interesting series of speeches, with the same old arguments and with a letter from the President, but without the use of the old guard this time. My arguments very likely will be the same old arguments as well. But I noted that the distinguished Senator from Mississippi asked in his argument, "What do the allies say" about what we are considering, debating, and deciding here?

My answer is another question: What do the American people say about 535,000 military personnel and dependents stationed in Western Europe more than a quarter of a century after the end of the Second World War?

What this proposal would do, as it is incorporated in the appropriation bill now before the Senate, would be to put into effect the Nixon doctrine in Europe; because the Nixon doctrine calls for a low profile not just in Southeast Asia and the Western Pacific but in Europe as well.

The distinguished Senator from Arizona said, referring to the President, "He"—the President—"does have the constitutional right to ignore what we do in this body." If that is the case, why do we not just abolish the Senate. Where is the doctrine of institutional equality which is guaranteed under the Constitution? What are we here—a bunch of robots? We have constitutional responsibilities, too. I was talking to the President some months ago, and, as I recall, he made this statement to me somewhat as follows:

> We pay two-thirds of the cost of the defense of the free world.

We certainly do. In the past 20 years the NATO countries collectively have spent on defense $1,500 billion, and of that amount this country spent $1,095 billion dollars. We have spent it not in the NATO area but to keep our bases throughout the world and carry on the war in Southeast Asia, and for other purposes; but $1,095 billion—I repeat, $1,095 billion—of the people's money was spent during that period of time.

The distinguished Senator from Colorado (Mr. DOMINICK) thinks that Congress should be ignored. He said that if it is not, we will have 535 generals.

Well, as one who served as a seaman second class in the Navy, a private in the Army, and a private first class in the Marine Corps, and that was my highest rank, I do not believe that I am entitled to wear even one star on my shoulder.

But, I think, as a Senator from the State of Montana, as a U.S. Senator, I have a responsibility and I intend to carry out that responsibility to the best of my ability while I have the honor and privilege to represent the people from the Big Sky country.

Last August and September I took a trip to Europe along with the distinguished Senator from South Carolina (Mr. HOLLINGS). We covered a number of countries—Norway, Denmark, France—which is in and out of NATO—Italy, and Morocco—where we have installations connected with NATO—and the 6th Fleet; a staff member with me went to Germany for a close look over a period of days.

As of the year 1970, we find that of all the nations in NATO, the United States spent 7.8 percent of its gross national product, far more than any other NATO country. We find also that so far as terms of conscription in the NATO countries are concerned, Belgium has a 12-month conscription period; Canada has none; Denmark has a 12-month period—it has even thought of reducing that to 8 months; France has a 12-month period; Germany has a 15- to 18-month period; Greece has a 24-month period; Italy has a 24-month period for the navy and less for the others; Luxembourg, with 550 men in its army, has a 16-month conscription period; The Netherlands has an 18-month period; Norway has 12 months; Portugal has 24 months, mostly for service not in relation to NATO but in relation to Mozambique, Angola, and Portuguese Guinea; Turkey has a 20-month conscription period; the United Kingdom has no conscription; the United States has a 24-month period. I repeat, 24 months.

Mr. President, I would hope that the committee amendment affecting a nominal troop cut in Europe is sustained by the Senate.

It was last May—6 months ago—that the Senate rejected an amendment to cut by one-half, American troops stationed in Europe.

May I say that had that amendment passed at that time, I would have fallen through the floor of the Senate because it was too much of a cut, too quickly, and too soon. The purpose was, after a decade of trying by way of a sense of the Senate resolution, to make a dent in the situation, to bring the matter to the attention of the administration downtown, to bring it to the attention of Congress, to bring it to the attention of our allies, and to get away from ignoring it, as we do so easily in this country on subjects which are discomforting.

Since that time a great deal has happened—enough in my judgment to warrant raising once again in this body the issue of this Nation's involvement in Western Europe and the depth of its commitment there—not its commitment of spirit; there is no question about that; but its commitment of money, of men and supplies. The fact is, U.S. troop levels in Europe have been of great concern for a number of years. That an effort to cut that level 6 months ago was un-

successful in no way diminishes that concern, nor does it answer the many questions that have arisen in the meantime.

Few in this body will forget the general alarm that was sounded across this Nation and around the globe last May by those who opposed the original effort to reduce U.S. troop strength in Europe. Heard from then were voices of an earlier leadership that had not been heard from in years and years. It was irresponsible, so they said, for America to withdraw unilaterally half its troops from Western Europe. The critics suggested that there would come a cost-sharing program to distribute more equitably the burden of our NATO defense. It has been 6 long months. It is now late November and the cost burden of Europe's defense has not been reduced by a single cent. No such plan has emerged.

Instead, what this military overcommitment has meant to the economy here at home has been made all too clear.

The value of the dollar has decreased 11 percent in Europe. The cost of maintaining the 535,000 troops and dependents in Europe has, therefore, increased by 11 percent that consideration alone.

In the past 6 months Americans have left the consequences of overextension to the near breaking point. Economic controls over our own people are as severe as any imposed since the great depression. Six months ago there was no such thing as a wage-price freeze. Six months ago the devaluation of the dollar was completely out of the picture. Six months ago the import surcharge was not in the trade arsenal. Six months ago there was no mention of phase I, no thought of phase II, of pay boards and price commissions, of rent controls and whatever else must be brought to bear on an economy that simply was left alone for too long.

I do not mean to say that overextension to Europe or anywhere else abroad was solely to blame for America's economic ills; but to sustain 525,000 American troops and their dependents in Europe, the economic consequences have to be paid.

During the August recess, I endeavored to view again firsthand the American military situation in certain selected countries in Europe and in others through a staff member. I was interested not only in the monetary crisis just mentioned and the fallout arising therefrom, but particularly I sought to assess on that continent this Nation's military might that happens to be located there. I was impressed by the increasing problem of morale among American troops; a situation that was perhaps inevitable. A division of highly trained fighting men who have been sent abroad and have as their main occupation worthless, makework tasks, are going to suffer discontent, disharmony, drug addiction, and all the rest of the maladies that plague troops in such outrageous circumstances. And, Mr. President, do not you believe that this is not true. Soldiers trained to handle the most advanced weapons systems in the world cannot be sent abroad and given virtually nothing to do without turning to different means of occupying themselves.

Because of the continued economic restraints America is experiencing and because of the decrease in morale of our American military personnel, I find it imperative today to make again an effort to achieve a reduction of American military personnel in Europe.

It cannot be characterized as a drastic cutback, I might say. It is nominal only. May I say, furthermore, that I would even be willing to reduce the figure to 35,000 within the same time frame in the attempt to take the first step on the journey to bringing about a gradual reduction.

What must be faced is that the United States, through the Marshall plan, through the economic redevelopment and restoration of Europe which followed, has created a viable, strong, and highly competitive world market. Through our own generous efforts, we have created a world marketplace and now, having done that, we cannot say that we are going to remove ourselves from it and expect our friend and foe alike to supply us because we have supplied them for so long. This is just not the reality of the international economic scene.

In many ways on this issue, the desires of the Government have become similar to Narcissus, of Greek mythological fame. He was the young boy who stooped to drink and became so fascinated by his reflection that he was unable to live in a world where he came in contact with anyone other than himself. For too long the United States has been seeing images of itself around the globe. If it has not been the image, then it has been the attempt the image, be it in Indochina, the Dominican Republic, or wherever else America has gone. The result has been such an overextension of our military power that it has consistently bogged us down in international conflicts, with adverse domestic and economic ramifications.

Mr. President, this bill contains a "phase I." It is "phase I" of an effort for this Nation to return to reality in Western Europe, and to recognize the changes which are occurring throughout the world today, most especially in this first year of the decade of the 1970's. At an appropriate time in the future, phases two and three will be launched and gradually we will find ourselves in a proper role with regard to our NATO commitment. This is a first step. The process, hopefully, will redefine and reevaluate America's entire role overseas. Today all we are saying is that 25 years after the end of World War II, the United States is no longer the sole power in a vacuum created by war.

We are no longer the only society with the technological competence and economic abundance to supply and to compete with others. We are not a second-rate power, neither are we any longer the only first-rate power. There must be taken corrective measures to establish new boundaries of American responsibilities.

There is still the same old question that will always be asked. What of the deep fear of Western Germany—which is half of the old Germany? The argument goes that with a reduced restraining presence of American forces, Germany may seek to expand its own military power. It is this fear that would harden Russia's present position in Europe. This is pure speculation. Not only does it ignore the fact that Bonn has shown no stomach for substantial enlargement of its military forces, but it also denies the growing role of West Germany in the Common Market, its desire to retain its strong ties to the West as well as its eagerness for trade ties with the East.

As for mutual balanced force reductions, we negotiate and we talk and we thrash over these problems. We do not decide. We do not act. I wait now for it to be revealed right here on this floor today that indeed, once again that we are on the brink of a decision that will accomplish MBFR—that any action to effect a nominal U.S. pullback alone will destroy the last flicker of hope for achieving that end. It is a revelation, I must say, that will come as no surprise. If, in fact, Soviet reluctance to reduce its forces is dominated by fear of a nuclear West Germany, unrestrained by our presence, then the Soviets will be no more anxious to reduce its position in central Europe through mutual force reduction talks. In Southeast Asia we have learned too well the painful consequences of failing to face up to and correct bad policy when we are paying the price of it. We have busied ourselves debating the more superficial issues. On this matter, we need to clear the air with constructive action.

Paring the issue down to its simplest terms, no case can be made that a reduction by just one-sixth of our NATO forces would endanger the physical security of Western Europe; nor would it remove any bargaining chips. Why, it is asked in turn, should a unilateral effort to deescalate this European garrison be rejected? I do not oppose good faith talks with the Soviets or with anyone else. But since the Soviets do have considerable independent incentive to achieve force reductions on their own, what is so necessary about moving simultaneously? This initiative would be a reduction, not an escalation of forces. This initiative would ease tensions, not aggravate them. This initiative would enhance, rather than diminish, the prospects for eventual mutual troop reductions.

In summary, I would only stress again that this troop reduction effort does not seek the end of NATO. It seeks only to reduce ever so slightly the size of the U.S. garrison in Europe. It seeks only to bring this Nation's financial contribution to the NATO cause somewhat closer into line with that of other members. It seeks to shift the economic burden of NATO partly away from the American people.

As I see it, the current financial crisis is the handwriting on the wall. A slight shift now should make clear to all nations that our political and military role abroad which was established in another time and circumstance is not properly adjusted to current needs; not our own and not the world's.

I urge that the committee's action be sustained.

Mr. President, I ask unanimous consent that there be printed in the RECORD that portion of my report dated October 19, 1971, entitled "The United States and NATO," containing the charts and other worthwhile material.

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

III. THE UNITED STATES AND NATO

Current U.S. policies with regard to NATO ought to be seen in the light of the low level of European contribution to the organization and in the current atmosphere in Europe which is redolent with East-West detente. In this last regard, personal assurances were received from U.S. negotiators in Europe that progress is being made in the SALT talks and that, notwithstanding intra-German differences, a genuine breakthrough has been achieved with regard to the Berlin problem.

These recent evidences of relaxation of European tensions and other indications bear significance for the size of the U.S. deployment in Europe. The latter, presumably, is based on NATO's so-called strategy of "flexible-response" which, in practical terms, means an immediate readiness to engage in any war, short of nuclear, in response to attacks from the East. It is difficult to find people in Western Europe who believe such attacks are within the realm of likelihood. Government officials and military officers, who are trained to prepare for the worst eventuality, of course, concentrate on the possibility and certainly no one can say war is impossible. Insofar as the European governments themselves are concerned, however, they are not "putting their money" on this proposition.

That such is the case is indicated by the percentage of gross national product (GNP) which is being diverted by NATO members for defense. Set forth below is a table showing the defense expenditures of the NATO countries (excluding Iceland, which has no armed forces) expressed in percentages of GNP:

DEFENSE EXPENDITURES—TOTAL AND PERCENT OF GROSS NATIONAL PRODUCT AT CURRENT MARKET PRICES

[Calendar years, in millions of dollars]

[Exchange rates used: Belgium 50 francs, Denmark 7.5 kroner, France 5.554 new francs, Germany (F.R.) 3.66 DM, Greece 30 drachmas, Italy 625 lire, Luxembourg 50 francs, Netherlands 3.62 guilders, Norway 7.14 kroner, Portugal 28.75 escudos, Turkey 15 liras, United Kingdom $2.40 per £ 1, Austria 26 schillings, Spain 70 pesetas, 1.081 dollars]

Country	1962		1963		1964		1965		1966		1967		1968		1969		1970 [1]	
	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP
Belgium	422.0	3.3	445.0	3.2	497.0	3.2	501.0	3.0	526.0	2.9	569.0	2.9	602.0	2.9	630.0	2.8	[2] 695.0	2.8
Denmark	207.0	3.0	220.0	3.0	235.0	2.8	263.0	2.8	277.0	2.7	300.0	2.7	345.0	2.8	352.0	2.5	[2] 368.0	2.3
France	3,994.0	6.0	4,114.0	5.5	4,372.0	5.3	4,556.0	5.2	4,813.0	5.0	206.0	5.0	5,438.0	4.8	5,708.0	4.4	5,900.0	4.0
Germany (F.R.)	4,708.0	4.9	5,443.0	5.3	5,342.0	4.7	5,441.0	4.4	5,533.0	4.2	5,849.0	4.3	5,276.0	3.6	5,895.0	3.6	[2] 6,103.0	3.3
Greece	170.0	4.0	179.0	3.8	188.0	3.6	210.0	3.6	239.0	3.7	313.0	4.3	367.0	4.7	425.0	5.1	450.0	5.0
Italy	1,377.0	3.3	1,649.0	3.4	1,789.0	3.4	1,939.0	3.3	2,146.0	3.4	2,174.0	3.1	2,245.0	3.0	2,259.0	2.7	2,310.0	2.5
Luxembourg	7.1	1.4	7.0	1.3	9.2	1.5	9.5	1.4	9.9	1.4	8.3	1.4	7.5	1.0	7.8	.9	[2] 8.3	.9
Netherlands	604.0	4.5	637.0	4.4	735.0	4.3	750.0	3.9	771.0	3.7	884.0	3.9	906.0	3.6	1,017.0	3.6	[2] 1,096.0	3.5
Norway	192.0	3.6	205.0	3.6	220.0	3.5	266.0	3.8	273.0	3.6	294.0	3.5	336.0	3.7	350.0	3.6	375.0	3.4
Portugal	200.0	6.9	199.0	6.4	224.0	6.6	232.0	6.2	257.0	6.3	333.0	7.2	372.0	7.2	371.0	6.5	400.0	6.3
Turkey	199.0	5.7	211.0	5.0	229.0	5.1	255.0	5.2	266.0	4.7	306.0	4.8	344.0	4.7	360.0	4.6	355.0	4.3
United Kingdom	4,353.0	6.3	4,488.0	6.1	4,799.0	6.0	5,018.0	5.8	5,168.0	5.6	5,463.0	5.7	5,545.0	5.4	5,497.0	5.0	5,950.0	5.1
Total Europe on NATO	16,433.0	5.0	17,797.0	5.0	18,639.0	4.7	19,441.0	4.6	20,279.0	4.4	21,699.0	4.5	21,784.0	4.1	22,872.0	3.9	24,010.0	3.7
Austria	80.0	1.1	100.0	1.3	131.0	1.5	114.0	1.2	135.0	1.3	142.0	1.3	158.0	1.3	158.0	1.3	165.0	1.2
Spain	379.0	3.2	417.0	3.0	460.0	3.0	494.0	2.7	677.0	3.2	832.0	3.6	998.0	3.9	1,033.0	3.6	1,165.0	3.6
United States	52,381.0	9.3	52,295.0	8.9	51,213.0	8.1	51,826.0	7.6	63,571.0	8.5	75,484.0	9.5	80,732.0	9.3	81,444.0	8.7	76,507.0	7.8
Canada	1,674.0	4.4	1,584.0	3.8	1,677.0	3.6	1,535.0	3.0	1,633.0	2.9	1,818.0	3.0	1,783.0	2.7	1,757.0	2.4	[2] 1,906.0	2.4

[1] Estimate.
[2] Actual.

Note: See following table for earlier years. (1) Data shown are on basis of NATO definition of defense expenditures. (2) Data for Germany prior to 1955, Greece for 1955, and Austria and Spain for all years, are estimated. Germany's expenditures through 1955 were largely occupation/support costs. (3) Conversions of national currency data into dollars have been made on the basis of official foreign exchange rates. A uniform exchange rate has been applied for all years in order to preserve the trend of the national currency data and eliminate distorting fluctuations in the dollar figures caused by devaluations. Because of purchasing power disparities comparisons between countries cannot be precise.

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Country	1949		1950		1951		1952		1955		1958		1959		1960		1961	
	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP
Belgium	153.0	2.3	165.0	2.4	268.0	3.4	399.0	4.9	341.0	3.7	366.0	3.5	374.0	3.5	383.0	3.3	391.0	3.2
Denmark	48.0	1.9	48.0	1.7	63.0	2.0	90.0	2.7	123.0	3.2	132.0	2.9	132.0	2.6	148.0	2.7	157.0	2.6
France	862.0	5.5	1,006.0	5.5	1,587.0	7.1	2,256.0	8.6	1,984.0	6.5	2,983.0	6.8	3,228.0	6.6	3,450.0	6.4	3,672.0	6.2
Germany (F.R.)	1,230.0	5.0	1,202.0	4.3	1,701.0	4.9	2,336.0	5.9	2,017.0	3.9	1,872.0	2.8	3,029.0	4.2	3,310.0	4.1	3,600.0	4.0
Greece	54.0	5.9	66.0	6.1	87.0	6.6	88.0	6.4	123.0	5.1	149.0	4.7	158.0	4.8	170.0	4.8	168.0	4.2
Italy	482.0	3.7	565.0	3.9	732.0	4.4	833.0	4.6	881.0	3.8	1,035.0	3.5	1,067.0	3.4	1,136.0	3.4	1,199.0	3.2
Luxembourg	2.2	.9	3.4	1.4	5.3	1.6	8.7	2.4	12.3	3.3	8.6	2.0	8.0	1.8	5.3	1.1	5.8	1.1
Netherlands	188.0	4.0	249.0	4.8	293.0	4.9	346.0	5.5	469.0	5.6	457.0	4.6	416.0	3.9	477.0	4.0	556.0	4.4
Norway	52.0	2.7	50.0	2.4	80.0	3.1	116.0	4.0	133.0	4.0	143.0	3.6	155.0	3.6	148.0	3.3	165.0	3.3
Portugal	49.0	3.7	53.0	3.6	54.0	3.4	59.0	3.6	77.0	4.1	86.0	4.0	98.0	4.3	105.0	4.2	171.0	6.4
Turkey	37.0	6.0	40.0	5.8	43.0	5.3	49.0	5.1	72.0	5.1	98.0	4.1	143.0	4.8	160.0	4.9	181.0	5.5
United Kingdom	1,870.0	6.2	2,038.0	6.4	2,755.0	7.8	3,746.0	9.9	3,762.0	8.1	3,819.0	6.9	3,814.0	6.5	3,972.0	6.4	4,102.0	6.2
Total European NATO	5,027.0	4.9	5,485.0	4.8	7,668.0	5.8	10,327.0	7.0	9,994.0	5.5	11,149.0	4.8	12,622.0	5.0	13,464.0	4.9	14,368.0	4.8
Austria									21.0	.5	73.0	1.4	77.0	1.4	73.0	1.2	73.0	1.1
Spain	NA	NA	NA	NA	NA	NA	165.0	4.1	201.0	3.7	249.0	3.0	255.0	3.0	269.0	3.0	295.0	2.9
United States	13,503.0	5.2	14,307.0	5.0	33,059.0	10.0	47,598.0	13.7	40,371.0	10.2	45,096.0	10.1	45,833.0	9.5	45,380.0	9.0	47,808.0	9.2
Canada	344.0	2.3	457.0	2.8	1,128.0	5.8	1,734.0	7.8	1,682.0	6.5	1,610.0	5.1	1,519.0	4.5	1,530.0	4.4	1,587.0	4.4

NA—Not available.

Note: See preceding table for later years. (1) Data shown are on basis of NATO definition of defense expenditures. (2) Data for Germany prior to 1955, Greece for 1955, and Austria and Spain for all years, are estimated. Germany's expenditures through 1955 were largely occupation/support costs. (3) Conversions of national currency data into dollars have been made on the basis of official foreign exchange rates. A uniform exchange rate has been applied for all years in order to preserve the trend of the national currency data and eliminate distorting fluctuations in the dollar figures caused by devaluations. Because of purchasing power disparities comparisons between countries cannot be precise.

It will be noted that the European defense effort in terms of percent of GNP has been dwindling ever since the Berlin crisis of 1961–62. Figures for 1971 when compiled will show further ebbing in many cases. There are all sorts of caveats which can be made in regard to these figures. Nevertheless, they are indicative. The same point is true about the following data relating to conscription in the Alliance countries:

CONSCRIPT TERMS IN NATO COUNTRIES 1951–71

[In months; Key: A—Army; N—Navy; AF—Air Force]

Country	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71
Belgium						18	18	15	15/12	12	12	12	12	12	12	12	12	12	12	12	[1] 12
Canada																					
Denmark						16	16	16	16	16	16	16	16	16 N/AF14	16 AF14	14 AF12	14 AF12	14 AF12	14 AF12	12	12
France						18	(24)18	(24)18	(27)24	(24)18	(24)18	(24)18	18	18	16	16	16	16	16	16/12	12
Germany							12	12	12	12	12	18	18	18	18	18	18	18	18	18	18/15
Greece						(21)18	(21)18	(21)18	(21)18	24	24	24	24	24	24	24	24	24	24	24	24
Italy						18	18	18	18	18	18	18	18	15	15	15	15	15	15	15	15
													N28	N24	N24	N24	N24	N24	N24	N24	N24
Luxembourg						12	12	12	12	12	12	12	9	9	9	6					
Netherlands					18	18	18	18	18	18	18	20	20/18	A18 N/AF21	A18 N/AF21	A18 N/AF21	A18 N/AF21	A16 N21 AF18	A16 N21 AF18	A16 N21 AF18	A16 N/AF18
Norway					16	16	16	16	16	16	16	16	16	12	12	12	15	15	15	15	15
Portugal					4	4	4	18	18	18	18	18	18	18	18	18	A12 18	A12 24	A12 24	A12 24	A12 [2] 24
Turkey					24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	[3] 18 [4] 20	20
United Kingdom	24	24	24	24	24	24	24	24	24	24/—											
United States	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24

[1] 15 months for service in Belgium only.
[2] Exceptions according to need of service.
[3] Officers.
[4] Enlisted men.

NOTES

Complete data not available for 1951–55.
/ Denotes change in low during calendar year.
France—156–62. Legal draft was 18 months; conscripts were retained for number of months in parenthesis.
Greece—1956–59. See note re France.

It may be understandable, but it is still regrettable, that the viability of NATO seems yet to depend so much on United States leadership, physical presence and exhortation. The habit is 25 years old and may be hard to break but it is essential for both Western Europe and the United States to move away from this one-sided emphasis. The European governments are so accustomed to the omnipresence of the United States that they continue to insist on their inability to deflect more of their budgets for defense. Yet, there is a failure to comprehend that the same consideration may be true in this country. The point seems to be getting across, at last, but in a disruptive way. That might have been avoided if adjustments in contributions to the military effort in Europe among the NATO members had been pressed in good time.

Even now, with the difficulties at home and the accumulated evidence of relaxed European attitudes towards the East, the United States continues to maintain a swollen and cumbersome military establishment in Western Europe. Indeed, while U.S. military forces in Europe amounted to 291,000 at the end of 1970, by June 30, 1971 they had increased to a figure of 307,000. With them, as of June 30 of this year, were no less than 230,000 American dependents, 150,000 located in Germany alone. In addition, the United States employed almost 90,000 local nationals in connection with maintaining the military presence. These troops, dependents and employees are spread through 60 cities, towns and villages just in Germany, with engineering and supply units located at about 80 sites in that country.

The U.S. command structure in Europe also remains top-heavy. According to EUCOM (U.S. European Command Headquarters) there are still 128 general and flag officers in the theatre, or approximately one for every 2,350 men. The balance of payments and cost-reduction exercises of the past few years have trimmed some fat. Other reductions have resulted from the U.S. military withdrawals on request from France, the shift of technical and other personnel to Viet Nam, the dual-basing concept which permits two-thirds of a division to remain in the United States, and the halving of the MAAG (Military Assistance Advisory Group) missions in Western Europe. It should also be noted that a Department of the Army survey for 1970 reports a 15 percent reduction in headquarters personnel. So long as the over-all command structure remains basically untouched, however, such reductions as have taken place amount to a matter of hacking at the fringes. It is reasonable to expect that the U.S. military complex in Europe will continue to involve upwards of half a million Americans until some hard decisions are made on the initiative of the Administration or precipitated by the Congress.

It is difficult to determine the part of the deficit in the balance-of-payments which is derived from the U.S. military deployment. The figure generally used is about $1.8 billion a year. Against this is a so-called "offset agreement" with West Germany in the amount of roughly $1.6 billion covering the two fiscal years 1970–71. Of the offset, $200 million a year is in the form of West German loans to the United States and some $400 million has gone for annual purchases of military equipment in this country which in all probability would have to be purchased for the German military establishment with or without a U.S. military presence in Europe. In any event, German loans to this nation and arms purchases are hardly ideal ways of closing a balance-of-payments gap.[4] Nor do they have anything whatsoever to do with reducing the cost of the total U.S. commitment to NATO which accounts for about $14 billion of the budget of the Department of Defense. On the contrary, the interest which has to be paid on the offset loan would have the effect of increasing the cost!

Important as the payments deficit or the cost of the NATO deployment may be, they are not the most significant considerations which urge the reduction of U.S. forces in Europe. First and foremost what is involved is a matter of principle. It is a matter of the validity of a policy which, contrary to historical experience, requires the indefinite stationing of heavy concentrations of troops in Western Europe. The presence of large numbers of armed forces overseas for extended periods of time inevitably creates the kind of human problems as well as financial problems which we are experiencing now in West Germany. These constitute a source of weakness rather than strength in relations among allies. Troops serving in distant lands in peacetime lose a sense of clear purpose. The local citizenry lose a sense of solicitude and respect. The mutual resentments grow.[5]

Moreover, it is wrong to expend excessively from public funds almost out of force of habit after a change in the circumstances which precipitated the spending process in the first place. That there has been a change in Europe is indicated by the unwillingness of the European nations to turn aside from their concentration on economic progress in order to accept more of the military burdens of NATO.

It is contended by some European governments that the United States last December bound itself not to take any unilateral action with regard to force reductions and that this restraint must continue to operate for the foreseeable future. In point of fact, the Executive Branch cannot make such an indefinitely binding commitment without concurrent action by the Congress since the commitment is dependent, in the last analysis, on Congressional appropriations. In any event, it should be noted that other NATO members have not bound themselves indefinitely and the actual level of each nation's present commitment to NATO is what each nation is prepared to commit.

Of course the United States or any NATO nation should confer with NATO allies before acting on force-reductions or any other important measure—and this applies to spheres of action other than the military. That ought to go without saying but it is not the same as saying that the United States is bound, any more than other members, by the outcome of such talks. The distinction may be the slender one of whether

[4] Moreover, there appears no way to discover exactly how much our troops and their dependents add to the balance-of-payments deficit by spending in Germany for non-American goods and services. There are items such as the price paid for automobile insurance—not to mention the outlays following car accidents—which may cost Americans in the neighborhood of $20 million annually. Another example of such costs is the high charge for utilities to U.S. personnel; these may run to about $25 to $30 million each year.

[5] While the West German Government may be anxious to keep the U.S. military establishment intact, a good many Germans apparently would not be sorry to see substantial American withdrawals. There are indications of rising bitterness on the part of U.S. servicemen and their dependents because of their treatment in German communities where they are situated. Germany is where the problem is concentrated, because more than half the nearly 400 major bases maintained abroad by the U.S. Defense Department are located there.

or not other countries tacitly acquiesce in, or openly disapprove of, the specific action but it is a real distinction.

In my judgment, the question of substantial reductions of U.S. forces in Europe at this time revolves around a matter of political atmospherics, rather than military necessity. Very few military men will say without numerous reservations that the presence of four and one-third American divisions in Germany, along with the total strength of the alliance can prevent the Soviet Union from reaching the Atlantic if it were to undertake a full-scale conventional attack. The real deterrent is nuclear, along with the expectation of the participation of the United States in the event of any general military conflict in Europe short of nuclear war. That European governments are anxious for insurance on the finality of the U.S. commitment in the form of the presence of American troops is understandable. What is not understandable is the adamancy about the size of the deployment which, it appears, is insisted on not only by the European governments but, perhaps, even more emphatically by the Executive Branch of this government.

It is not suggested now and has never been suggested by me at any time in the past that U.S. forces be completely withdrawn from Europe. Rather what I believe to be long past due is a planned reduction of forces which will cut the size of the present deployment at least in half. That would still leave in Europe substantial U.S. forces as an earnest of this nation's commitment. What is advocated, in short, is an orderly cut in U.S. forces in Europe to a level somewhat higher than that suggested by Dwight D. Eisenhower, as satisfactory for NATO purposes as long ago as a decade!

It seems to me that the excessive deployment which has persisted since that time has not only contributed to our economic difficulties but has warped the character of the North Atlantic Alliance. The continued overemphasis on the military aspects of NATO in the face of a declining need has brought into some question the credibility of the United States commitment to the peaceful development of Western Europe States commitment to the peaceful development of Western Europe. We have not devoted anything like comparable attention to the political, economic and moral aspects of our inter-relationships with the European countries. We should long since have emphasized and consolidated those aspects of the Alliance, while at the same time acting to reduce our military contribution to a more reasonable level.

The hour may now be very late to bring about this adjustment which in any circumstances would be a delicate and difficult task. If it is to be achieved at this time of economic stress, there will have to be the closest attention from the President and, perhaps, even his personal intervention. Indeed, it might be helpful if President Nixon were to include a visit to Western Europe in his travel plans for the months ahead. Congress can and should contribute to the process in every way possible, while at the same time giving the President full support whenever he takes initiatives to strengthen the conditions of peace in Europe.

This moment in intra-European and Euro-U.S. relations offers opportunities to cement that peace. It would be tragic if the opportunities were to be lost either because of faulty reactions to international financial difficulties or because the machinery of our European-NATO policy insists on flailing at the ghosts of the past instead of dealing with present realities.

If there are opportunities in the moment, there are also possibilities for destructive economic sniping and political intrigue. The dangers are there and they will increase rapidly unless the present tendencies towards multiplying trade restrictions and recrimination are held in check and unless the NATO adjustments are forthcoming without further delay. There need not be a slide into what, in the end, may well be the crumbling of Western unity. It is late but there is still time to move into a new and fruitful age of mutuality with Western Europe and within a peaceful Europe.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Colorado and will then yield to the Senator from Wyoming.

Mr. ALLOTT. Mr. President, there is never a good time for the Senate to act precipitously. There is no such thing as an issue on which the Senate should act hastily. As George Washington once remarked, the Senate is the saucer into which we pour our legislation so that it may cool.

These thoughts come to mind as we consider the proposal to affect a substantial unilateral withdrawal of troops from Europe. It was not so very long ago—May 19—that we dealt with a similar measure. At that time, after a noteworthy and gratifying outpouring of bipartisan support for current policy, the measure was defeated 36 to 61. It was defeated because a substantial maojrity of Senators decided—correctly, in my judgment—that such a unilateral withdrawal is unnecessary, unwise, and directly detrimental to perhaps the very first real prospects for a mutual reduction of troop levels on both sides of the Iron Curtain.

But in spite of all this, we are now being asked to reverse the position we so emphatically affirmed not so long ago. And I cannot but feel that we are in some danger of being swept along in an unmanageable, unreflective riptide of resentments and disillusionment regarding the world role of the United States.

If we act today to reverse our considered judgment of just 5 months ago, I am afraid that will lend credibility to the notion that the Senate is too volatile, too rash, too shortsighted to be a useful partner in the setting of foreign policies.

In the hope of dissuading some Senators from doing this injury to the Senate position, and to the world role of the United States, I want to briefly review some of the substantial reasons for defeating the move to cut our European strength.

Perhaps the most expeditious way of outlining what is at stake here is by making clear what is not at stake. Consider these points:

First. The impending vote on the question of whether or not to withdraw troops from Europe now, unilaterally, is not a referendum on whether we, here in the Senate, want to go on record as favoring troop withdrawals. Virtually every one of us share with the President a desire to reduce the number of Americans stationed abroad. What is at stake are the delicate matters of diplomacy—the questions of when, and how much, and—most importantly—what form of reciprocity is involved.

Second. The question here is not whether, pending mutual troop withdrawals, we should go on paying an unfair share of the burden of defense in Western Europe. In fact, a more equitable pattern of burden sharing is being worked out amongst the allies without any intervention from the Senate being necessary. In fact, an abrupt and unilateral American withdrawal can only demolish all hopes for beneficial negotiations with our allies. Make no mistake about it. Our allies have got the message. They are not dense or stupid or villainous. They have been tardy in picking up their fair share in the burden of defending Western Europe. But American diplomacy has moved our allies, and particularly the Germans, off dead center. This is not the time to disregard these diplomatic efforts.

Third. What is at stake here is not formalizing the end of the cold war. Let us all face at least a portion of the unpleasant truth. However much we desire an end to the strenuous exertions of the cold war, the most that can be said is that the cold war is defrosting. It is not over yet. The way to encourage the defrosting to continue is to encourage a warming wind from the east. That is, we must do nothing that would discourage a Soviet inclination to move toward mutual and balanced force reductions. Clearly the Soviets are uneasy about the new diplomacy involving China. Clearly they would like to reach some accommodation in Europe. Clearly, judging by the flurry of traveling by high Soviet officials, the Soviet Government is moving, ponderously as always but moving nonetheless, toward some sort of genuine negotiations. Today we can vote to cut our troop strength unilaterally, thereby destroying any desire—indeed, any need—for the Soviets to negotiate. Or we can prudently draw back from that position, and respect the integrity of the diplomatic process. Make no mistake about it. A vote for a unilateral cut in troops is a vote of no confidence in the American diplomatic process.

Clearly the United States has much reductions. The principal Soviet instrument for increasing the U.S.S.R.'s influence over Western Europe is the Soviet Army itself. Referring to the Western Europeans, the key element in their ability to resist these pressures rests on their confidence in U.S. military support for their defense.

It is also true that the people of Eastern Europe have much to gain from mutual and balanced force reductions. The massive Soviet force concentrations in Eastern Europe are a terrible burden on the local economies. And the presence of these forces exerts a strong inhibiting pressure against all the forces of liberalization that are struggling to make themselves felt. I know that Americans of Eastern European extraction remain alert to the plight of all peoples in Eastern Europe. These Americans are also alert to shifts in American policy which have an impact on the well-being of Eastern Europeans. The policy we are considering here is one such policy. Any unilateral troop withdrawal will remove the incentive for the Soviets to remove some of their troops from the unhappy

nations of Eastern Europe. And I am sure that many Americans are watching us and hoping that we will not remove the incentive.

Now there are those who argue that, in spite of the clear reasons of diplomacy for not taking a unilateral step at this time, still we must move unilaterally because of economic considerations.

This is not true.

First, as a general point, it must be emphasized that we must never be so rigid in our economic policies that we allow economic exigencies to determine policies relating to the most sensitive matters of national security. In fact, when we have problems without balance of payments, we should address those problems with just the kinds of measures currently being employed.

In fact, it is of the utmost importance to note that in the 6 months since we last voted on a similar troop withdrawal proposal, the shift in U.S. international economic policy has taken much of the force from the argument that the balance-of-payments crisis necessitates a unilateral troop withdrawal. The revision of relative currency values combined with the indvidual efforts of NATO partners to reduce the pain of our burden, have vastly reduced the significance of that argument. For example, it is gratifying that our allies are buying many of their weapons systems from us in order to help us offset the balance-of-payments drain in our European commitment.

It is often said that this balance-of-payments drain amounts to $14 billion. That is not so. That is the cost of our entire European military commitment. But the actual balance-of-payments loss is less that $2 billion. It is important to understand that a cutback of troops in Europe will not result in substantial actual savings. After all, units withdrawn will not be disbanded. They will be stationed elsewhere, perhaps in the United States, if sufficient bases are available.

In fact, according to a study prepared by the Rand Corp., if we were to reduce our troop strength in Europe while maintaining a credible commitment, we would need to adopt some form of dual base arrangement, complete with the facility for rapid troop deployment across the Atlantic. This is not an inexpensive proposition. I recount all of this just to reemphasize the fact that there is no way of arguing for troop reductions on the grounds of economic necessity.

Mr. President, this question of the relationship between the United States and Europe has occupied my attention and energies more than any other question in the field of foreign policy. Just this year I have made two trips to Europe, during which I spoke at length with many European officials, and with the highly qualified Americans serving in Europe. Everyone I spoke with agreed on one central point. The U.S. troops immunize Western Europe from suspicion about Germany. Thus our stable commitment there is a necessary basis for the continued development of West European unity. Unilateral reductions in U.S. forces in Europe, taken out of the context of general European reductions would make German forces look uncomfortably large and could thereby have the effect of forcing a reduction in German forces as well—another reduction without a mutual Soviet reduction.

I might add that the only alternative to that scenario is equally ominous. An increase in the old fears of Germany might could lead the smaller nations of Western Europe to seek to come to their own understanding with the Soviet Union. In either case the progress of European unity, from which we all stand to gain, and which has recently gained so much from the decision of the British Government to enter the European Economic Community, would be set back.

In addition, Mr. President, the question of our troop level in Europe is related to fast-breaking events in the economic field.

There is no question that recent changes in U.S. policy regarding economic affairs have given now intensity to old anxieties that are never far below the surface in Western Europe. These are anxieties about the stability of our entire commitment to a long-range partnership—both economic and military—with the Atlantic community.

Recently the so-called dollar crisis has aggravated this anxiety about the basic strength of the United States. This comes at a very crucial and sensitive time, when we are witnessing significant changes in the relations between the Soviet Union and both Eastern and Western Europe. To take just one example, consider the Berlin agreement. Of course, this agreement must be considered a tentative, and at best a first step along the road to a real settlement of the Berlin question. But the crucial point is that there is nearly universal agreement in Europe that if the United States had begun unilateral troop reductions before that first agreement was reached, there would be no agreement at all.

After all, if the American resolve to stand firm in Europe is crumbling, the Soviets need not take any constructive steps. They must merely wait us out, and maintain an enormous and undiminished military presence with which to exert pressure.

Let me emphasize that point. Just as the presence of the 6th Fleet in the Mediterranean has been instrumental in keeping the peace in the Middle East, so, too, the stability of the American commitment to Europe has been instrumental in—indeed, necessary to—the achievement of a partial Berlin settlement.

Likewise, the fact that a tenuous cease fire was achieved in the Middle East was no reason for withdrawing any part of the 6th Fleet. By the same token, the fact that the Berlin talks are meeting with some success; and that the SALT talks are in a crucial stage; and the talks on mutual and balanced force reductions—MBFR—are being prepared—these facts are not reasons for an abrupt departure from past policy. On the contrary, these are all reasons for maintaining that stable policy which at long last is producing results in sober, promising diplomacy.

Mr. President, I do not want American soldiers stationed overseas any longer than is necessary. But my desire to cut back troops is more than countered by the evidence that I have cited. For that reason, I am voting against the unilateral withdrawal of American troops.

Mr. STENNIS. Mr. President, I yield 4 minutes to the Senator from Wyoming.

Mr. McGEE. Mr. President, I rise with reluctance but with serious thought on the trading points advanced by my majority leader, the senior Senator from Montana. I do so in appreciation of a very deep consideration that he has given to this question together with every Member in this body.

I just visited with the junior Senator from Maine (Mr. MUSKIE) who could not be here at this moment, but he has filed a statement for the RECORD opposing the action anticipated here.

I oppose my leader for one essential reason and that is that our procedure here is in the wrong order. We are proceeding in reverse. Of course, it would be great if our allies would carry a more liberal share of the load, and they should. There is one thing that would be worse than our allies dragging their feet and that would be for us to drag our feet in the maintenance of that delicate balance drawn across Eastern Europe. The chance to involve our allies more constructively and the chance to reduce our total manpower commitments in Europe hang on the success with which we maintain that balance. So my position is that we keep our priorities in the right order rather than reverse them.

I, too, am concerned about the economic effect, but the one thing we cannot afford at this stage is to lose that balance in Europe for which we have already paid such a high price. That, in my judgment, would be utter folly.

I would say to my friend from Montana that, as even he confesses now, his earlier efforts to cut back American manpower in Europe by one-half was a trial balloon, and had it passed he would have fallen down on the floor. Worse than that would be the consequence of pulling the rug out from under this body and its responsibility to the free world, a responsibility that is largely ours. The more help we can get from our friends, the better, but help or no help, our best chance rests in sustaining the balance. The balance in Europe cannot be lowered unilaterally, and keep the meaning it permits us to have as we seek a better way to achieve the reduction of armaments of all nations, in the months and years ahead.

Therefore, I would hope that Members of this body will put first things first so that we will win the chance to address ourselves to the very meaningful point of the majority leader; namely, lowering the manpower commitments everywhere. Without the first we will not have a chance to do the second.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I feel the

distinguished majority leader has rendered a valuable service to the country in raising this issue. I believe he has many points he has forcefully made and his points will strengthen the hand of the United States in pressing forward with the position we have argued with our NATO allies.

The President has decided to reduce our military force from 3.5 million men to 2.5 million men, and I have not heard a serious proposal that that level of 2.5 million men, which we will reach by July 1, 1972, should be further reduced.

Then, the question is: Where should these men be deployed? The cost of maintaining these men in Europe is no greater and it may be less than it would be in this country.

The problem is the balance-of-payments cost and we are in the midst of serious negotiations with our European allies. There is every hope we shall have successful negotiations to have them recognize the problem. They must meet the problem of the impact on our balance of payments of the costs of our forces in Europe.

I have enumerated any number of times where and how they can meet those costs. We have reduced our troops in Europe from 434,000 men in early 1960 to 310,000 men now.

As we are on the brink of negotiations with the Soviet Union on mutual reduction of forces, I feel after talking with Manlio Brosio when he was here several weeks ago, that we could not have a more competent negotiator on behalf of NATO and U.S. forces in dealing with the Soviet Union.

We should not take the chance that we might disrupt negotiations on burden sharing at this time and we should not unilaterally draw our forces down at this time when there is a possibility that we can have a mutual reduction of forces.

At a time when negotiations between NATO and the Warsaw Pact on mutual and balanced force reductions are in prospect, I believe it would be unwise to reduce U.S. troop levels unilaterally. To do so would be to eliminate the possibility of meaningful negotiations for mutual reductions. And I am absolutely convinced that the peace of Europe and the world is better served by mutual reductions than by a unilateral reduction.

Communist Party Secretary Leonid Brezhnev has indicated on several occations the willingness of the Soviet Union to begin such negotiations, and last month the NATO Deputy Foreign Ministers appointed Manlio Brosio to make preliminary explorations with the Warsaw Pact on the question of mutual reduction negotiations. It is expected that Brosio will go to Moscow within the next few weeks.

In view of the desire of the United States, the Soviet Union and their allies of both NATO and the Warsaw Pact to seek agreement on mutual and balanced force reductions, I simply cannot see any logic in going ahead, unilaterally, to reduce U.S. force levels in Europe at this time.

Moreover, President Nixon intends to travel to Moscow next May to work toward a more stable relationship between East and West and between the Soviet Union and the United States. Hopefully by then substantial progress toward mutual reductions of forces would have been made, which would immensely increase the possibilities for useful discussions leading further toward a reduction in tensions and toward greater East-West accord.

It can further be argued that unilateral reductions would adversely affect the progress of the talks on strategic arms limitations, and would jeopardize the discussions between East and West Germany on Berlin.

At the 24th party congress, March 30, 1971, Brezhnev said:

> We have come out in favor of reduction of armed forces and armaments in areas where armed confrontation is especially dangerous, primarily in Central Europe.

Can anyone gainsay that a reduction in the Soviet military presence in central Europe would be desirable? Surely we should have enough patience to give negotiations on mutual force reductions a chance.

President Nixon, in his foreign policy statement for the 1970's, said that:

> Reducing the military confrontation in Europe is in the common interest of East and West. Our objective should be to create a more stable military balance at lower levels and lower costs.

The administration is going ahead with mutual and balanced force reductions in order to maintain the security of the West at lower cost and to lower the level of tension in central Europe.

I do not wish to indicate that negotiations on mutual troop reductions will be a simple matter. The views of some 20 governments will be involved, and there will be special difficulties in determining the relationships of the tank-heavy Soviet divisions to the more lightly equipped NATO divisions. There will be great problems in reaching equations that will be acceptably balanced in the minds of all those negotiating.

Nevertheless, if we go it alone now in the matter of troop reductions, the chances for successful negotiations will be undercut seriously.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Christian Science Monitor of November 23, 1971, entitled "Let's Not Hurry on Troops."

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

LET'S NOT HURRY ON TROOPS

We have the greatest sympathy with Sen. Mike Mansfield's desire to cut down the costs of American military forces in Europe to save money for the taxpayers. And we recognize that he may well be correct in his contention that bringing back 50,000 of the 310,000 Americans now in Germany could happen without seriously weakening NATO's defensive posture or subtracting from President Nixon's bargaining power when he sits down with the Russians in the spring.

However, the cost of keeping those troops in Germany is less than the cost of keeping them at home, and it seems to us that the reasons for going slow about bringing them home are considerably stronger than the reasons for rushing it.

After all, Central Europe is the strategic heart of the world. The American forces located there are the tangible expression of America's very real and continuing interest in what happens in Central Europe. Perhaps the same interest can be conveyed by fewer men, but why the rush?

Manlio Brosio is waiting right now in Brussels for an answer to the request of the allied Western powers for him to go to Moscow to open preliminary discussions aimed at "mutual and balanced withdrawal" of all outside forces from Europe. This mission is intended as a preliminary to the next meeting of the NATO Foreign Ministers in Brussels in early December.

And the Brosio mission with its intended sequel in the December meeting of the foreign ministers is all part of the preparations for President Nixon's trip to Moscow in the spring when he hopes to be able to get into very serious talks with the Russians about mutual troop withdrawals.

In view of all this planning, and all that could hinge on it, it seems to us that the Congress might prudently table any pending resolutions about American troop withdrawals from Europe for the time being. We do not know that the pending Mansfield amendment would do any harm. But we are also confident that tabling it would not do us any harm either. And it does seem to us that, when dealing with something so vital to the peace and stability of the world as Central Europe, it would be better to risk going too slowly than to risk going too fast. The cost of keeping 50,000 American troops in Europe for another six months or a year is not enough in our opinion to justify taking any risks at all.

Mr. PERCY. Mr. President, I also ask unanimous consent to have printed in the RECORD excerpts of replies I have received from 15 of our chiefs of mission to NATO countries in response to a cable I sent them last Friday.

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

ITALY

(By Ambassador Graham Martin)

Although I can well understand the sense of frustration and weariness which may have contributed to the committee action calling for reduction of about 60,000 in American troop levels in Europe by next June 15, I very much hope this will not be the final action of the Congress. Except for two brief interludes, I have had the opportunity to observe at close range the evolution of the NATO Alliance for more than two decades. In this long historical perspective, it has well served the interests of all its members, including the United States which brought it into being with complete bi-partisan support. It is therefore, an American success story—a successful American Foreign Policy initiative—in which all Americans, regardless of party, can take legitimate pride.

Adjustments are necessary to meet changing conditions. We now have the opportunity to negotiate with the Warsaw Pact nations mutual and balanced force reductions. Americans used to be pretty good horse traders, but it is always difficult to trade something for nothing. I happen to have a great deal of faith in American diplomacy, but I really think the Senate should ponder whether it should send my diplomatic colleagues into the forthcoming MBFR negotiations with this kind of handicap, for these negotiations may literally determine whether we can avoid a nuclear confrontation for the balance of this century.

In the beginning, it was inevitable that we should bear the major share of the costs

of the alliance. Indeed, there was no other choice. But for some time now, I know of no responsible American or European who does not admit that we are now carrying a disproportionate share of the burden This Administration has worked hard and effectively to redress this balance, and these efforts are now beginning to bear fruit both in actions underway to bring up the force-levels of our other allies to agreed-upon levels, and in other arrangements for a more equitable sharing of the common defense burden. Since our allies, like ourselves, are free and open societies, this process is inevitably slow, agonizingly so at times, but the process is most definitely underway, and a bit of patience is needed. With it, I am confident we shall see a considerable acceleration in the measures that will result in a more equitable sharing of the common burden.

I am more concerned over the psychological and political impact which the proposed action would have in convincing both our friends and our opponents that we have definitely begun to turn our concerns inward. I have never forgotten an article I ran into in Cairo in early 1943. Written by Gerald W. Johnson, its title was "The Inscrutability of the Yankees." Its thrust was that although we attribute to Orientals the inscrutability of countenance and circumlocution of expression that is often baffling, it is really the Americans who confuse the rest of the world. Reviewing the thirties—The Johnson Act, The Neutrality Act, the renewal of the draft by a one-vote margin, Roosevelt's campaign speech in Boston: "Again, again, and again, I assure you that your sons will not fight in a foreign war"—Johnson observed it was perhaps logical for Hitler and Tojo to assume they had a free hand. Yet anyone who really knew America, knew that the response it finally made was one it had to make because it was the kind of country it was. I think Gerald Johnson's essay of 1943 has a certain relevance to 1971. I deeply believe we are still the kind of country we have always been, and that when the chips are finally down we will respond as we always have. Having participated in one war, and having brought back to Arlington a son from another war, I profoundly hope we will not again confuse either our friends or our opponents by giving a signal which I believe is completely contrary to the position the country will finally take when the chips are down.

FRANCE

(By Ambassador Arthur K. Watson)

A. Prospects for Mutual Troop Reduction Negotiations with USSR—

Any unilateral reduction on our part obviously removes the basis for negotiations regarding mutual and balanced force reductions. I have seen no evidence whatsoever that the Soviets or other Warsaw Pact members would make similar unilateral reductions as a kind of parallel action.

B. Effect on Forces of Other Allies—

Other NATO allies are already confronted with question of modernizing and strengthening their forces. We would only make it more difficult for those governments to convince their own parliaments and public opinion to move in this direction if we confront them with a unilateral decision to reduce our own forces.

C. Burden Sharing Negotiations—

The same considerations apply to burden-sharing where Parliamentary and public opinion will again be critical factors in determining public policy in Europe.

D. Psychological and Political Impact in Europe—

I am very concerned about the possibilities for misunderstanding in Europe of the very basic and profound US attachment to our transatlantic relationship, and our very close identity of purpose with Western Europe in all fields, whether political, economic, cultural, or national security. The security interests of the US and Europe are intimately interconnected and I am concerned that our own actions not give rise to any illusions that this is not the case. Any proposal that may be adopted which appears to run counter to our basic interests in Europe can only perplex, confound and dismay the governments and public here who share our basic approach. It would further undermine the credibility of US policy in Europe when added to the unresolved economic and monetary questions in our relations with Europe. I know that you understand this clearly and will emphasize it to the Senate.

THE NETHERLANDS

(By Ambassador J. William Middendorf II)

I would greatly regret the one-sided and incomplete approach of the Mansfield Amendment to a vitally important and very complex problem. To act unilaterally in this way would not only weaken US vis-a-vis the Soviets, but would also indicate that we are beginning to dismantle the alliance which, to my way of thinking, is just as important as it was two decades ago even though its shape and activities are inevitably changing.

A. Prospects for Mutual Troop Reduction Negotiations with USSR—

If we begin major unilateral withdrawals I see no good reason why the Soviets should do anything except sit tight and watch happily the consternation in Western Europe, while confidence in the alliance dissipates on both sides of the Atlantic.

B. Effect on Forces of Other Allies—

I fear that to urge our allies to increase or improve their forces would sound rather hollow against the background of unilateral reduction on our part. Their parliaments—including the Dutch—are faced with heavy budgetary demands in fields more popular than defense (e.g., housing, education, environmental control). I strongly suspect the tendency would be to level forces down rather than bring them up. "If the leading power of the Alliance is so relaxed and so airy about its commitments, what can we Europeans do?" This approach would be particularly strong among the smaller European powers.

C. Burden Sharing Negotiations—

Burden sharing really came about as response to President's pledge last year that given similar actions by allies we would maintain and improve our forces in Europe. If we go back on this, there would seem to be little incentive for Europeans to carry out their defense improvement plans, on which at present they seem to be seriously working.

D. Psychological and Political Impact in Europe—

Passage of the Mansfield Amendment would be a milestone of the wrong kind. We get increasing questions here whether a new isolationism is growing up in the US, and the Mansfield Amendment would be another "proof" to those who think it is.

E. Other Considerations—

I fear there would be a spill-over into other fields such as the financial and commercial if Mansfield Amendment were adopted. Trust in our ability to carry out our commitments would be shaken, with results I think would be highly adverse to our general interests.

FEDERAL REPUBLIC OF GERMANY

(By Ambassador Kenneth Rush)

A. Prospects for Mutual Troop Reduction Negotiations with the USSR—

There is no doubt that a unilateral cut now in US forces in Europe would in practical terms eliminate the possibility of negotiating reductions with the Russians and therefore of bringing about comparable Soviet withdrawals and agreement on other measures such as forward observer posts against unauthorized troop increases which are a major purpose of MBFR negotiations.

B. Effect on Forces of Other Allies—

The immediate result on the German forces would be a strong pressure for comparable reductions in view of the residual suspicion with which Germany is still viewed by its neighbors in Eastern and Western Europe. In these circumstances not only would German forces not be improved, they would probably be reduced.

C. Burden sharing negotiations—

The reduction would have an immediate and negative effect on current burden sharing negotiations with the FRG. Why should the Germans make a large financial contribution based on their desire to retain the American forces here and computed on the basis of the present level of forces when such forces are drastically cut?

D. Psychological and Political Impact in Europe—

I believe there is a serious risk that the planned reduction would be taken in Europe as a signal of a major permanent shift in the American position on international affairs and of subsequent total withdrawal of US forces. This would result in a serious increase of Soviet influence over Western Europe and block the movement towards the more independent, self-sustaining Western Europe we want.

E. Other Comments—

I consider the proposal for reduction, if carried out, would have disastrous consequences both for the prospects of a stronger Western Europe working cooperatively with the US and for negotiated solution of specific East-West differences with the Soviet Union, including the SALT negotiations.

ICELAND

(By Ambassador Luther Replogle)

A. Prospects for Mutual Troop Reduction Negotiations in the USSR—

I believe passage of Mansfield amendment would have seriously damaging effect on possible MBFR negotiations with USSR. Unilateral troop reduction would distort framework of preliminiary discussions with NATO allies and seriously undermine their confidence in US at this critical time. Obviously it would place US at an extreme disadvantage in eventual negotiations with Soviet Union. Such a reduction might lead Soviet Union to conclude that negotiations are no longer important if concessions can be obtained without them.

B. Effect on Forces of other Allies and Burden Sharing—

While it is possible that a US reduction might serve to galvanize the NATO allies into bringing their forces up to agreed-upon levels and assuming more of the defense burden, I believe the contrary to be more likely. The effect of a troop reduction by the US as leader of the Alliance may well lead the European allies to conclude that we consider the Soviet threat to be diminishing and that, therefore, they too can safely maintain their forces at, or reduce them from, present levels.

C. Psychological and Political Impact in Europe—

In my view, the psychological and political consequences resulting from the passage of the amendment would be disastrous. Over the years the US has been the keystone of the NATO alliance. Most of the favorable developments in postwar Europe have come about because of the security NATO has afforded. A troop reduction of this magnitude, decided upon unilaterally, and following closely the Senate's recent action on foreign aid might make it appear that US is in the throes of a basic policy reassessment.

U.S. MISSION TO NATO

(By Charge' George Vest)

Passage of the Mansfield Amendment would have the most serious adverse effects

on US security interests in Europe. European security is inseparable from our own.

A. Prospects for Mutual Troop Reduction Negotiations with USSR—

Substantial reduction of US forces in Europe would remove any incentive for the Soviet Union to undertake serious negotiations, just at a time when the Soviets have responded favorably to repeated NATO calls for mutual and balanced reductions. The US military commitment to Europe is the keystone to MBFR. Without it MBFR prospects would collapse. Not only would we lose our chance of setting in motion a process of erosion of Soviet dominance of Eastern Europe, but we would invite doubt about the dependability of US leadership since we have always joined in calls for MBFR negotiations. It might be noted that maintenance of US forces in Europe at current levels is also a major factor in strengthening the hand of the West in other ongoing or potential negotiations such as the Berlin negotiations and a conference on European security and cooperation.

B. Effect on Forces of Other Allies—

Our partners substantially meet agreed force goals now. However, the AD–70S Study last year indicated a need for members of the Alliance to improve their forces qualitatively. Since then, there has been positive allied action. The US has set the example. For the US to engage now in a reduction of the magnitude proposed would not only undercut what we foresee as a continuing improvement on the part of our allies, but would almost certainly precipitate a reversal. Such a reduction would undercut the President's promise that given a similar approach by our allies, the US will maintain and improve its own forces in Europe and not reduce them unless there is reciprocal action from our adversaries.

C. Burden Sharing Negotiations—

The US has been pressing its allies to assume a more equitable share of the burden for the common defense. Our efforts are beginning to bear fruit. The allies volunteered last December to increase their defense spending by $1 billion in the next five years over and above programmed force improvements. If the US drew down its forces and lessened its efforts, it is most doubtful that our allies would make up the resulting deficiencies.

D. Psychological and Political Impact in Europe—

Passage would have a severe impact. Passage might be taken as an indication to our allies, and to the Soviets, that the US was headed back toward isolationism. They would tend to see this as the first step in realizing the central objective of Soviet-European policy, the removal of US military strength and political influence from Western Europe.

E. Other Considerations—

Another consideration is the effect of passage on the strategy of flexible response. Present NATO and US troop strength makes this strategy feasible and believable and provides for a non-nuclear "breathing space" in case of non-nuclear attack. This capability to meet and contain an attack at a level below the nuclear threshold is vital for US security in an era of strategic nuclear parity.

CANADA

(By Ambassador Adolph W. Schmidt)

In response to Senator Percy's request, the following are my views on the effect of the Mansfield provision if it were to be carried out.

A. Prospect for Mutual Troop Reduction Negotiations with USSR—

There is no question in my mind that the Mansfield provision would not only reduce Soviet incentives for mutual troop reductions very substantially, but would also make it politically more difficult for the USSR to reduce its troops, whether mutually or unilaterally, or even to engage in negotiations on the issue. (A unilateral reduction by the US would mark for the Soviets, and for our Allies in Western Europe, such a failing of American resolve as would raise for the Soviets for the first time since 1945 a realistic prospect of their long-sought goal of hegemony over all Europe. I firmly believe that prospect would be so attractive that whatever may be Soviet motivations for troop reduction, they would be submerged until either the goal were attained, or Soviet hopes flagged once again.)

B. Effect on Forces of Other Allies—

The Europeans know that no feasible amount of force increase by NATO Allies could compensate for the critical failure of American resolve and commitment to the defense of Europe that would be manifest in implementation of the Mansfield provision.

C. Burden Sharing Negotiations—

I would leave it to my colleagues in European NATO capitals, who are involved, as I am not, in burden-sharing negotiations, to comment directly upon that issue. We could not, however, in good conscience expect to approach the Canadian Government for a long time with any request for an increase in its contribution to NATO.

D. Psychological and Political Impact in Europe—

In a broader context, we are passing through an era in which US influence declines as that of other nations inevitably grows. The world watches our reaction and weighs our future. If in weariness, or disappointment, or self-centeredness, we withdraw at the sacrifice of our own and our Allies' interests, we must not expect a rallying of supportive effort around the globe, but rather the contrary.

TURKEY

(By Ambassador William J. Handley)

The following are my comments in response to Senator Percy's questions:

Prospects for Mutual Troop Reduction Negotiations with USSR—

Unilateral US reduction would be seen by Turks as undermining NATO's collective bargaining position and preventing them from having their security concerns fully taken into account in East-West negotiations.

Effect on Forces of Other Allies—

Turkey is seeking and would continue to seek to meet agreed goals. But, its possibilities are largely dependent on US Military Assistance Program. As to efforts of other major allies, Turkey welcomes these but does not view them as in any sense a replacement for US strength in NATO.

Psychological and Political Impact—

Isolated, poor, and having a common border with the Soviet Union, Turkey, even more than the allies, equates NATO with the United States. It relies almost entirely on US both for outside support and for the maintenance of its own forces at any meaningful level of combat-readiness. Already shaken by threats to the US Military Air Program, it would view adoption of the Mansfield Amendment as further evidence of growing US isolationism and disengagement from Europe.

UNITED KINGDOM

(By Ambassador Walter H. Annenberg)

I am deeply disturbed that there is again before the Senate a proposal for action by the Congress to limit the level of US forces in Europe. The continued effectiveness of NATO, the security of Western Europe and the United States, the move toward greater unification in Europe, and the prospect of progress toward better relations with Eastern Europe once again hang in the balance. All of these efforts with our allies depend fundamentally on the firm commitment of the United States.

A. Prospect for Mutual Troop Reduction Negotiations with USSR—

I believe that a unilateral reduction of US forces such as is now proposed in the Senate would seriously jeopardize, if not abort, the current move toward negotiations with the Soviet Union and the Warsaw Pact Nations for mutual and balanced force reductions. In the past six years the Russians have undertaken an extraordinary expansion of their strategic capabilities. There is already deep concern in Western Europe about the dangers inherent in reductions on our part unless they are carefully and resolutely negotiated from the premise that the overall defensive posture and capability of NATO must not be diminished in relation to the Warsaw Pact. Unilateral reductions by the United States would inevitably call into question the basic premise of mutual reductions, and some of our NATO allies would feel obliged to review their attitude toward that prospect. I think it likely that some NATO governments would conclude that the NATO policy aimed at mutual reductions should be reversed; the British Government would, I believe, reason that such a conclusion might be unavoidable. The general view of our NATO allies would be that mutual reductions could not be achieved in the face of unilateral US reductions.

B. Effect on Forces of Other Allies—

A unilateral US move would have broader and equally serious effects with respect to the collective NATO effort and individual allied defense efforts. During the past year, and now again this year, European NATO governments have made improvements over and above what had been originally planned in their defense programs. To a large extent, these additional efforts were in response to United States initiatives and to our pledge of continued US force commitments. If that pledge were not to be kept, the political consequences in Europe would oblige many governments to review their own programs, with the probability that support for a continuation of increased efforts would not be forthcoming.

C. Burden Sharing Negotiations—

The negotiations with our allies on various forms of burden sharing would be undermined by independent action by the US to reduce forces. While European governments have accepted the proposition that Europe must do more in its own defense, any arbitrary degradation of the collective defense would reduce the willingness of our European allies to make greater contributions. Why make a bigger effort for a less effective whole?

D. Psychological and Political Impact in Europe—

Such a step must be weighed against the background of what appears increasingly to Europe as a pattern causing apprehension about the essential orientation of the United States and its basic purposes. Such doubts about American actions and intentions gnaw at the confidence of European people and leaders in their own capacity and abilities. The cohesion and collective will of the Alliance are endangered by these misgivings, and the most serious questions are raised about the leadership which, whether sought or not, rests with the United States. I am convinced that the essential interests of the United States lie in common with our NATO Allies and that the continued commitment in cooperation with our allies remains as the most valid base for US policy.

PORTUGAL

(By Ambassador Ridgway Knight)

From personal conversations I know that there is serious concern at top of Portuguese leadership over abrupt US actions such as aid cutoff and previous troop cut moves, which are viewed as emotional and not worthy of free world's leadership. While I well realize that we are seeking to share with others some of the burdens of this leadership, it is a fact—and not a pleasant one—that trust in our qualifications for leadership is being

eroded by such moves as the Mansfield provision.

LUXEMBOURG

(By Fred J. Galanto, Chargé)

Possibility of reduction of US Forces in Europe is of major concern here. When official from the US Mission to NATO was interviewed on Radio-Television Luxembourg (listening audience estimated at 12 million) on November 12, this was very first subject to be raised.

In recent weeks high-level GOL officials have voiced to us their fears that any precipitous reduction in US forces would lead to public pressures in other European NATO countries to reduce troop levels.

Government and political leaders would object to any unilateral reduction in forces by the US on two additional grounds. First that there would be no corresponding quid pro quo from the Soviet Union; second, they want to be able to consult on and discuss these issues with the US rather than being presented with a *fait accompli*.

Finally, there is perhaps no other country in Western Europe where the memory and appreciation for the liberating role of the United States in 1917–18 and again in 1944–45 are so keen and alive as in Luxembourg. People here look upon US forces in Europe not only as the guarantor of defense against the Russians but as the primary stabilizing influence among the present Western European allies.

GREECE

(By Ambassador Henry Tasca)

My comments on Senator Percy's questions are as follows:

A. Prospects for Mutual Troop Reduction Negotiations in the USSR—

While GOG (Government of Greece) obviously follows subject of MBFR, it has not focussed sharply on matter in light of the so far very slowly evolving situation *vis-a-vis* negotiations with USSA. At same time, since GOG, like most countries assumes best negotiating tactics rest upon position of strength, it would undoubtedly prefer balance to remain as it is rather than accept what it would view as one-sided deterioration.

B. Effect on Forces of Other Allies—

GOG forces are already close to agreed-upon levels. Prospect, particularly in light of current status of US military aid, of major increase in Greek force levels is unlikely.

C. Burden Sharing Negotiations—

Respecting burden-sharing, Greece has made a substantial effort to improve its defense forces. Its defense budget for next year will be greater than the current year's.

D. Psychological and Political Impact in Europe—

Main impact in Greece will be psychological and political. Greeks will indeed link cut in level US forces in Europe with recent vote on foreign aid and other signs of growing isolationism in U.S. Senior Greek officials have expressed to us on number of occasions in last few months their concern that US losing the ability and will to provide the Alliance with continued firm leadership. Approval of Mansfield provision would be particularly disheartening to Greeks, who have so scrupulously adhered to their NATO commitments, and would be seen as further evidence that US faltering in its leadership role.

E. Other Considerations—

While Greece remains firmly committed to NATO, actions of this kind cannot help but cause Greeks to review their options. Adoption of the Mansfield proposal would be not only damaging to our interests here in NATO context but also in relation other matters of strategic importance to US.

NORWAY

(By Chargé John Campbell, Ausland)

A. Prospects for Mutual Troop Reduction Negotiations in the USSR—

The proposed action would certainly throw away a negotiating counter which we expect to use in the MBFR talks with the Soviet Union.

B. Effect on Forces of Other Allies and Burden Sharing Negotiations—

The proposal would reduce any immediate incentive for the Norwegians to increase their share of our defense burden since we would be starting to pull out of Europe. The possibility of increasing Norwegian defense efforts would decline as they paused to reevaluate this new changing situation.

C. Psychological and Political Impact in Europe—

Proposed action would have an adverse psychological and political effect on Norwegians especially after the Senate's recent negative vote on foreign aid. It would confirm a growing impression here that the U.S. is turning isolationist, in addition to becoming protectionist in its trade policies.

D. Other Considerations—

This proposed action would also be especially demoralizing here just as the Norwegian public is becoming more aware of the growing Soviet military strength along the Norwegian border and more frequent Soviet naval exercises in the Norwegian Sea. The action would raise fundamental questions about our leadership of NATO.

BELGIUM

(By Chargé Louis Charles Boochever)

If the proposed amendment to the Defense Appropriations Act were to become law, it would create serious doubts within the Belgian Government and public about the willingness and ability of the United States to honor its mutual defense commitments in Europe. As a result, the Belgians' present resolve to maintain and increase their own strength would be shaken.

More specifically, I believe that a unilateral US reduction of the magnitude involved in the amendment would have the following effects:

A. Prospects for Mutual Troop Reduction Negotiations with USSR—

It is clear that we would have lost critical leverage in the prospective MBFR negotiations with the east. The Belgians, on the other hand, would be under domestic pressure to reduce their forces, since parliament and the public could hardly be convinced that any action on the part of a country of less than ten million people could compensate for the considerable lost strength represented by the proposed US withdrawal.

B. Effect on Forces of Other Allies and Burden Sharing—

Likewise, in the face of a unilateral US force reduction of this type, US requests to the Belgian government to increase its own defense budget would find little sympathy here, and the currently bright prospects for force improvements and an increased European willingness to shoulder a more equitable share of the defense burden are likely to fade.

C. Psychological and Political Impact in Europe—

Psychologically, the effect of the Mansfield Amendment, if passed into law, would be substantial in Belgium. In the first place, here and elsewhere, many Europeans would conclude that the US has determined that the threat from the East has diminished. Secondly, although the figures involved will themselves cause grave doubts about US commitments, the reduction would certainly be seen as a first step in a US withdrawal from Europe and world affairs in general. Whatever the true economics involved, Europeans would find it most difficult to believe that the motivation for US reduction did not go far beyond the need to redress economic and financial imbalances. One hears often here the concern that isolationist sentiment in America is growing and that this will inevitably have an effect on the US role in world affairs. A unilateral US troop reduction in Europe will undoubtedly fortify this impression and substantiate doubts about the wisdom of relying on US commitments. Willing to increase their own efforts in order to complement American strength, at least the smaller European countries will in the current circumstances see any effort to replace large-scale American troop withdrawals as futile. The end result would be a Western Europe with weakened defenses and, therefore, in a distinctly disadvantageous position vis-a-vis Warsaw Pact forces.

DENMARK

(By Chargé Byron E. Blankinship)

Replies to Questions Posed by Senator Percy are as follows:

A. Prospects for Mutual Troop Reduction Negotiations with USSR—

As seen from Copenhagen, reduction and if possible elimination of US presence and influence in Europe remains one of prime goals of Soviet policy. They remain reluctant, however, to remove their troops from nations of Eastern Europe. Unilateral US troop reduction now would give Soviets a good deal of what they want without requiring any *quid pro quo* on their part. It would also probably encourage them to hold up on any serious mutual withdrawal measures in expectation that internal US political pressures will inevitably bring about more sweeping retrenchment on American side.

B. Effect on Forces of other Allies—

Unilateral US troop cut would militate against chances of securing improvements in Danish armed forces and would encourage reduction in Danish force levels rather than bringing them fully up to snuff.

C. Burden Sharing Negotiations—

Burden sharing negotiations would also be hampered by unilateral US reductions. In Embassy's judgment, Danes would not react by contributing more but by reducing their own share because US withdrawal would accelerate existing tendencies here toward neutralism.

D. Psychological and Political Impact in Europe—

Impact here of troop withdrawals, on top of dramatic cut-off in foreign aid, would greatly reinforce growing impression that US is withdrawing into itself. Most disturbing aspect of this wide-spread opinion is perhaps that Danes do not reproach US for isolationism but regard such development as understandable and inevitable. Danes are already very wary of offending Soviet Union and further growth of idea that US has turned its back on Europe could precipitate strong pressures here for Danish Government to "reinsure" with USSR on whatever terms it is able to obtain for itself. Dangers to US long term interests are obvious and would not repeat not be limited to Denmark or even to Scandinavia as such attitudes would quickly spread elsewhere in NATO, particularly among smaller members.

E. Other Considerations—

Danes have consistently regarded US military presence in Europe regarding security guarantee, which protects them against potentially hostile forces in area. As small country, Denmark is very sensitive to influences from all its neighbors and erosion of assurance provided by disinterested ally such as US could undermine Danish confidence in future development of US-European relationship.

Mr. MANSFIELD. I agree they are part of the establishment but when are

we going to stand up as individuals in this body and express our individual judgment?

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Virginia.

Mr. BYRD of Virginia. Mr. President, this is a difficult vote to cast.

My judgment is along the line of that expressed by the distinguished Senator from Missouri (Mr. SYMINGTON) and the distinguished Senator from Montana (Mr. MANSFIELD).

It is vitally important that we reduce the number of U.S. ground troops in Europe. The troops morale is not good; the use of drugs is too prevalent; discipline is too lax. Our balance-of-payments deficit is smashing. Our Federal budget is greatly out of balance and the U.S. dollar is steadily declining in value.

I have read carefully the letter just submitted by the President of the United States to the Senator from Mississippi (Mr. STENNIS). I read it several times.

It is a very strong letter from the Commander in Chief urging the Congress not to mandate him to bring home from Europe troops at the rate of 10,000 per month during the next 6 months.

He points out also the delicate stage of the SALT talks and emphasizes he has made new initiatives for peace in two great capitals of the world.

At this delicate time in world history I am inclined to give additional time to the Commander in Chief in a matter of such worldwide significance.

For that reason I shall once again oppose mandating the President on this matter, but it may be the last time I will be able to so vote.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from California.

Mr. TUNNEY. Mr. President, I believe that American forces in Europe should be reduced. But I do not believe that this is the time for the Congress to impose that reduction upon our troop levels.

Last May, I stated that, if the President's progress in negotiating force reductions was inadequate, the Congress should consider a legislative cut in American troops strength in Europe.

I have carefully considered and evaluated the President's position and I believe that the administration has been and still is negotiating in good faith to reduce—mutually with the Soviet Union—American force levels in Europe. Although progress has been slow, I believe that some more time must be allowed.

Therefore, I shall oppose the legislative imposition of the American troops cut at this time. But I wish to make it quite clear that I am opposed to it because I have been assured by the administration that serious efforts are currently underway to achieve a mutual and balanced troops reduction; that at the NATO Deputy Foreign Ministers meeting recently a negotiator was selected who expects to enter shortly into negotiations in Moscow on this issue; and that a common U.S.-NATO negotiating position will be presented to the Warsaw Pact countries in the very near future.

With negotiations so imminent, I do not believe that this is the proper time to reduce unilaterally our forces in Europe.

That conclusion is reinforced, Mr. President, by the escalating language in the Middle East. It would be inappropriate at this time, with President Sadat of Egypt raising his voice and escalating his rhetoric at a level which comes dangerously close to a declaration of war, to withdraw precipitously any of our troops from Europe.

I wish to make it quite clear, however, that my vote today shall in no way foreclose me from reevaluating my position at a later date. If no progress has been made; if the representations I have received proved to be hollow expectations rather than true substantive progress; we can expect this issue to be raised again—and I shall vote to legislatively do what the executive branch has diplomatically failed to do.

I want to make clear that by voting against the Mansfield amendment today, in no way am I foreclosing the possibility of reevaluating my position at a future date and, like the Senator from Virginia, this may be the last time I vote against a Mansfield amendment.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, the defense appropriations bill contans a provision, passed in committee by a 14-to-13 vote, which would limit effective next June 15 the number of U.S. forces in the European theater to 250,000.

This provision would require that approximately 60,000 U.S. military personnel in Europe be brought home and relocated in the continental United States within the next 6 months.

First, there should be no illusion on the part of the American people that this will save any money. To my knowledge, none of the advocates of this cut claim that it would save money. In fact, it would initially cost money because bringing men and equipment back to the United States and positioning them somewhere on U.S. soil would obviously require large expenditure. However, this reduction would have a small but favorable impact on our balance-of-payments deficit as it would reduce U.S. spending in Europe to support these men and the additional benefit of ending spending by the dependents of these personnel.

Mr. President, let me say at the outset that I favor some reductions in our NATO personnel. However, I strongly urge the Congress to avoid placing an arbitrary ceiling on force levels in Europe while the President is trying to obtain reductions from the Warsaw Pact nations.

The United States is the "glue" which holds NATO together and any reduction on our part should be carefully coordinated with our allies there and hopefully matched by the Warsaw Pact nations.

Mr. President, I think the complexity of the NATO situation can be illustrated by listing some points on this subject. The fact that any reductions at this time would impact seriously on President Nixon's trip to Russia next year should be obvious. The fact that arbitrary reductions involve complex long-range policy considerations will be amply demonstrated by these points:

First. A cut of 60,000 men will seriously reduce our already weak conventional war capability in NATO. This reduction, which may seem small when compared with our overall forces, would in fact reduce our ground troops by one-third. If we diminish this conventional capability with this cut, then reasons for not cutting further in the next few years will be hard to suppress as U.S. ground forces of around 100,000 will be little more than a tripwire. These remaining men and their dependents would be quickly overrun if war should break out in Europe.

Second. A NATO cut would mean the United States is returning to an all nuclear response capability. Do we want to restrict the President to the use of only nuclear weapons if our European allies become active targets of Soviet expansionism?

Third. A new study by the Brookings Institution suggests that unilateral withdrawal of a part of all of the U.S. commitment in Western Europe would mean more, not less, spending. Most troops in Europe are housed in rent-free facilities.

Mr. President, I ask unanimous consent that a news article on the Brookings report headlined "Troops in Europe 'Budget Bargain' U.S. Study Shows" in the October 21, 1971, issue of the San Diego Union be printed in the RECORD at the conclusion of my remarks.

Fourth. If we pull out of NATO without mutual reductions by the Warsaw Pact, then our allies, faced by strong military forces across their borders, may take a neutralist stance. This could lead to a vacuum which the Soviets would surely step into. The possibility is an important reason why reductions should be carefully phased on a mutual basis.

Fifth. Efforts to obtain mutual reductions would have no chance of success if the Congress reduces U.S. forces while the President is trying to obtain mutual reductions. It is important to our overall national security that we maintain or improve our defense posture while reducing our burden in Europe through negotiations.

Sixth. An arbitrary step to cut NATO forces, in the face of the President's efforts through negotiations, would signal to the American people that the country is reverting back to fortress America and isolationism.

Seventh. The President is planning a trip to Peking and Moscow next year. We should not tie his hands now by taking action that should wait until after those trips. We have to give him flexibility. When he took office as President in 1969 we had 550,000 troops in Vietnam.

They are now down to 190,000; 25,000 will go out in December and 20,000 more in January, and we will have only about 145,000 there in February.

The President is doing all he can all over the world. He faces a big problem. Let us not tie his hands. Let us give him the flexibility to bring these troops back as early as he can, as I am sure he will do.

Mr. President, before closing my remarks, I ask unanimous consent that a

letter to me from Secretary of Defense Melvin Laird, dated November 18, 1971, be placed in the RECORD at the conclusion of my remarks. This letter makes clear that President Nixon and Secretary Laird oppose this NATO withdrawal.

Finally, these seven points are just some of the issues which the Senate should consider in this matter. As I stated earlier, reductions of our NATO commitment are desirable when made in the context of our broader national policy and when linked with mutual withdrawals by the Warsaw Pact nations. The Congress should allow the President time to implement these policies and not weaken his hand during the next crucial months.

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

[From the San Diego Union, Oct. 21, 1971]

TROOPS IN EUROPE "BUDGET BARGAIN," U.S. STUDY SHOWS

(By Ray McHugh)

WASHINGTON.—A new study of the American military commitment in Western Europe suggests that unilateral withdrawal of part or all of the 300,000-man U.S. garrison would mean more, not less, defense spending.

In the book "U.S. Troops in Europe: Issues, Costs and Choices," four Brookings Institution specialists have taken sharp issue with Senate Majority Leader Mike Mansfield's arguments for withdrawal. The Montana Democrat, defeated once this year, is again proposing a 50 per cent cut in the European force.

The Brookings Institute is a respected, private, nonpartisan research and analysis organization.

The garrison is actually a "budgetary bargain," says authors John Newhouse, Melvin Croan, Edward R. Fried and Timothy W. Stanley.

Unilateral withdrawal, they warn, could upset the military-political balance in Europe, wreck any hopes for mutual East-West arms reductions, splinter West Europe's still shaky platform for political unity and rouse Atlantic animosities that could cripple the drive for trade and monetary reform.

"If the current American troop strength is maintained and the U.S. commitment to defend Western Europe remains credible to Moscow," they write, "Soviet policy will probably remain much as it is—a combination of detente and negotiation aimed at checking moves toward closer Western European and Atlantic cooperation, while maintaining Soviet control over Eastern Europe.

MOSCOW REACTION

"What would Moscow do if American forces were unilaterally reduced?

"In the short run, probably not very much. The danger of immediate destabilizing Soviet actions would be small, since Moscow would be reluctant to apply threats or pressures that might stimulate Western European defense cooperation and closer Atlantic ties."

Desirable Russian action would be just as unlikely, they add. There would be no longer any incentive to negotiate mutual force reductions.

Any unilateral American withdrawal also could have disastrous effects in West Germany. Without strong conventional American forces in Germany, they argue, Chancellor Willy Brandt's "Ostpolitik" forces would be doomed. Bonn would have to choose between building a national military force to fill the gap—a force that would lack credibility, or take the more palatable short-term political route and order parallel cuts in military spending.

POLITICAL STORMS

"The emergence of a militarily weak and politically disarmed West Germany could strongly attract the U.S.S.R. toward a policy of renewed pressure on Western Europe," the Brookings writers say.

They also point out that any American withdrawal would cause political storms in Western Europe that would impede or even end movement toward unity and would touch off anti-American sentiments that could cripple trade and monetary cooperation.

Treasury Secretary John Connally has repeatedly reassured Western Europe that troop cuts are not considered part of President Nixon's new economic policy.

Today it is NATO's ability to fight for some time without using nuclear weapons that makes strategic deterrence credible, the writers argue, and that ability depends on conventional forces.

SOME SEE ADVANTAGE

Some believe that a unilateral cut in U.S. forces would shock the European NATO countries into strengthening their own defenses and prod them toward political union. The Brookings Institute writers claim that Europe's long dependence on the United States and its current lack of a steady impulse toward unity makes it just as likely that most NATO countries would cut their own forces and follow separate paths toward accommodation with the Soviet Union.

Over a period of time; the writers say, there may be more progress toward European unity, but for now NATO provides the political stability Western Europe needs if it is to achieve the internal progress needed to overcome its military dependence on the United States.

Proponents of U.S. force cuts argue that redeployment to the United States would save money, ease the strain on the U.S. balance of payments, and promote a more equitable distribution of the NATO defense burden. The writers say we would not save money simply by bringing troops back and stationing them in the United States.

AIRLIFT COSTLY

Cost reductions, they add, could be achieved only if we reduced the forces we maintain for European contingencies wherever they are stationed. Simply transferring a U.S. division from Europe to the United States could end up being more costly, because of the need to pay for expensive airlift capacity to return troops to Europe in an emergency, the Brookings writers said.

A solution to the balance-of-payments problem, the writers recommend, lies in negotiating cost-sharing and foreign exchange offset arrangements with NATO partners that would make the cost of U.S. troops in Europe no different from those stationed at home.

THE SECRETARY OF DEFENSE,
Washington, D.C., November 18, 1971.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: I learned last night that the Defense Appropriations Subcommittee of the Senate has adopted an Amendment offered by Senator Mansfield that would cut US troop levels in Europe. In light of my deep concern over this precipitate action, I immediately issued the following statement:

"The proposal of a Senate Appropriations Subcommittee to slash US military strength in Europe by more than 60,000 men by next June 15 is dangerous, and would undermine chances for the success of mutual and balanced force reduction negotiations. This ill-timed action would threaten the peace which NATO nations in Europe have enjoyed for more than a quarter of a century.

"As we prepare for negotiations with the Warsaw Pact, unilateral disarmament would be reckless. I am confident that the Congress will reject the imposition of an arbitrary ceiling on our deterrent military strength in Europe."

I cannot stress strongly enough my deep concern over the consequences that would flow from Congressional approval of such a troop reduction in NATO at this particular time.

In my judgment, these consequences would entail:

A severe loss of confidence in the ability of the United States to honor its commitments.

Further allied uncertainty concerning our determination to bring prospective negotiations with the Warsaw Pact to a proper conclusion. This could impact on the security of Europe for years to come.

A weakening of our ability to negotiate with the Soviet Union from a position of strength. I have repeated this theme continuously to my fellow ministers of defense, and I intend to continue emphasizing this point during the forthcoming December NATO ministerial meetings.

Undermining the agreements we have already arrived at within the Alliance to meet with members of the Warsaw Pact to discuss mutual and balanced force reductions. The Alliance has selected former Secretary General Brosio to explore the basis for negotiations with the Warsaw Pact and he is now anticipating his first meeting in Moscow. U.S. reductions at this time could seriously undercut the progress already made and the prospects for future progress.

A strong likelihood that our Allies will lose the momentum behind their own force improvements. Not only did European nations last December commit $1 billion above programmed defense expenditures over the next five year period, but they have since projected additional significant expenditures earmarked for force modernization. This is ample evidence that they are committed to an increased shouldering of the common defense burden.

A Soviet conclusion that they can count on a unilateral withdrawal of U.S. forces from Europe, thereby removing their incentive for meaningful negotiation. This could also impact unfavorably on other negotiations we are conducting with the Soviet Union by leading them to believe there is no need to bargain seriously with us. Some Europeans, with their confidence in collective security seriously eroded, could also be given an incentive to move toward accommodation with the Soviets thus further diminishing Soviet incentives to deal with us.

Finally, and perhaps most importantly, creating an impression on our Allies that we are unwilling to keep our pledges. This Administration has established its credibility throughout the world by its willingness and ability to keep its commitments. In Vietnam, in Berlin, in SALT, we have done what we said we would do. It is imperative to our security that we be given the opportunity to improve our posture and reduce our burden in Europe through negotiations.

I am confident that President Nixon's Strategy for Peace can succeed and will succeed if we do not abandon the principle of moving into negotiations from a position of strength.

I would hope that as you have an opportunity to reflect on the impact of this action at this time, you will agree with me that this is not the time for a unilateral weakening of our defense posture in Europe.

Best regards,

MELVIN R. LAIRD.

Mr. STENNIS. Mr. President, I yield one-half minute to the Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, the size and the nature of the U.S. presence in

Europe in the 1970's is an issue of vital importance on both sides of the Atlantic. For the first time in 25 years basic assumptions regarding the U.S. presence—in all its manifestations—are being questioned and reconsidered.

In the field of military security, the NATO Treaty has completed the 20-year period specified in article 13 and adherence to the treaty is now subject to denunciation by any of its members on 1 year's notice.

At the December 1969 meeting of the NATO Ministerial Council, the Nixon administration pledged to maintain the current U.S. troop levels in Europe at least through mid-1971. The level and the nature of the U.S. military presence in Europe beyond that date is yet to be determined. It will be influenced in an important way by developments relating to other aspects of the U.S. presence in Europe, including trade between the United States and the EEC and aid to the developing world.

Also, the progress of Chancellor Brandt's Ostpolitik, and the prospects for a European security conference, undoubtedly will influence the decision regarding future U.S. troop levels in Germany and Europe as a whole. The success or failure of the Strategic Arms Limitation Talks—the SALT negotiations—between the United States and the Soviet Union could have a profound influence on the nature the western deterrent, not only in global terms but in terms of the conventional—and tactical nuclear—defense of Western Europe.

In my judgment, however, the most important factor determining the military security relationship between the United States and Western Europe in the years just ahead will be, first, the unfolding of the Mideast crisis now reaching the climactic stage; second, trade and financial relations; and third, negotiations between the Soviet Union and the People's Republic of China.

In the Mideast, Europe and NATO are living on a powder keg; in trade and financial relations the United States and Europe are on the verge of a trade war.

As we have discussed today, the stakes in the Mideast for the United States are very high for it is an area of vital security interest to the United States—as it is to Europe. The Mideast—rather than Vietnam—is an area in which the Kremlin has chosen to test U.S. power and resolve, and the tenor of its political leadership of the West.

While the Mideast is an area of high importance to the United States, it is an area of direct, critical importance to Western Europe. The Mideast commands Europe's land, sea, and air routes to Asia and Africa. Fifty percent of Europe's industrial energy resources—and 80 percent of its oil—are obtained from the Mideast. The Mediterranean is the point of attack on Europe's soft underbelly.

Because of the importance of the Mideast to European and U.S. interests, and because of the nature of the Soviet challenge there, the role which Europe plays in the developing Mideast crisis is likely to have a major effect on the nature of United States-European security ties during the 1970's.

The U.S. presence in Europe has, of course, other major facets besides the military. The U.S. economic presence in Europe is a matter of prime importance on both sides of the Atlantic. American investment in European industry continues to elicit controversy. Within the international monetary community, questions concerning U.S. balance-of-payments policy and the future role of the dollar are subjects of highest concern. All of these questions are directly related to the cost and contribution of security expenditures and will bear heavily on decisions regarding the level of U.S. troops maintained in Europe over the next decade.

I wish to emphasize that issues of the highest importance to the United States are now being negotiated in Europe. The issues now under negotiation are of transcendent importance as they could determine the fate of Europe for the remainder of the century. The massive freeze in Western and Eastern European affairs for the past 25 years is cracking and a glacial flow has commenced. In my judgment, it is essential that the United States be alert to the possibilities as well as the dangers inherent in the present situation of flux and that we be prepared to invest the energy, attention, and resources necessary to enable us to join effectively in the shaping of the future of Europe now beginning to emerge.

The critical point has not yet been reached on mutual balanced force reductions. We cannot forego this opportunity. If we risk the situation by giving the signal for withdrawal now by pulling out 60,000 troops we put both the negotiations with the Soviet and Europe in jeopardy. If we leave a vacuum by giving this signal Europe will either move toward the Soviet Union, or West Germany will have to fill this vacuum. If the former, negotiations so promising for peace are over. If the latter the Soviet Union with its deep-seated fear of German nationalism will even more deeply divide Europe, and further jeopardize peace.

Mr. MUSKIE. Mr. President, over the last 6 months, the Nixon administration has both carelessly and unnecessarily strained U.S. relations with some of our principal allies—Canada, Japan, and West Germany, to name a few. Nixon administration actions have been high-handed and unilateral, and they have given scant attention to the problems and interests of our allies. Many of us in the Senate have criticized the President for these actions. By voting now to reduce American force levels in Europe by as many as 60,000 men without prior consultation with our allies, we would be committing the same kind of diplomatic error.

I do not believe that there is any political or military magic in maintaining our current European force level of 310,000. There is fat in our European forces that can and ought to be trimmed. I am convinced that our European forces must be reduced over time by substantial numbers. But these reductions should be made only after consultations with our allies. And such reductions should be part of a planned and orderly program of withdrawal so that both allied and other nations understand our intentions precisely, and are informed as to how many troops are to be withdrawn and how many will remain.

To withdraw without consultation and without such planning might persuade others that we are weakening a European commitment which we actually want to maintain. We should not create such an illusion where the reality is not intended and not desired.

When I voted several months ago against the amendment to make substantial troop cuts in Europe, I said that consultations with our allies and our decision about U.S. troop levels in Europe depended upon a number of other issues: among them, the state of West German Chancellor Willy Brandt's policy of Ostpolitik, the U.S. balance of payments, and negotiations with respect to mutual and balanced force reductions—MBFR.

The fate of Chancellor Brandt's Ostpolitik still hangs in the balance. His government has successfully negotiated agreements with Poland and the Soviet Union. Berlin negotiations with the East German regime are in progress. At this critical juncture, I fear that German opponents of this policy of normalization could use American force reductions to undercut domestic support for Ostpolitik.

The U.S. balance of payments has continued to deteriorate disastrously, and we must act swiftly to reverse the decline. But the removal of 60,000 men from Europe would have very little effect on that problem. Instead, we must demand from our allies additional offsetting payments to neutralize the balance of payments cost of keeping our troops in Europe. But this can only be done appropriately and effectively by means of tough negotiations. To withdraw some troops unilaterally might only undermine ongoing negotiations with our allies for offsetting payments for our remaining troops.

The situation with respect to MBFR has also changed over the last few months, but in the direction of making it even more imperative that a unilateral American troop cut be avoided at this time. Former NATO Secretary General Manlio Brosio has been making the diplomatic rounds, including Moscow, to see what can be done to get these negotiations underway. I believe that mutual and balanced force reductions in Europe represent one of the most critical and important arms control possibilities in the near future, and I urge the administration to move forthrightly toward this goal. But I do not believe unilateral withdrawals, at a time when the Soviets have indicated their willingness to negotiate for mutual withdrawals, will advance the prospects of MBFR.

Mr. President, I do not believe this is the time for making unilateral force reductions in Europe. But I do believe this is clearly the time for tough negotiations and planning for such force cuts in the near future, and I urge the administration to press ahead with negotiations among our NATO allies and with the Soviet Union for mutual and balanced force reductions at the earliest possibility.

Mr. BEALL. Mr. President, last spring the Senate defeated efforts to precipitously reduce U.S. troop strength in Europe. But once again we are confronted with this issue and if it is deleted from this bill, I am sure that it will be brought up again and again. That fact alone does not discredit the merits of this case, however, and I would like to take this opportunity to briefly examine the merits of our commitments in Western Europe.

The North Atlantic Treaty Organization, no matter what its shortcomings may be, has served an immensely important role in the postwar era. The creation of NATO was a direct response to a very real threat. By 1948, it had become clear to everyone that the Soviet Union intended to retain perpetual control over the nations of Eastern Europe and to extend its influence as far westward as possible. NATO was created as a shield to such expansionism and its success can hardly be discounted.

Combined with the Marshall plan, NATO provided the Europeans with the military security that fostered a sense of renewed confidence in their future. As we have seen throughout history, political stability, domestic tranquility, and military security lead to economic growth, cultural creativity and a reduced likelihood of war. NATO helped to tap the immense technical, human and economic resources of postwar Europe.

In recent years, we have seen a distinct lessening of tensions along the Iron Curtain in general and in the Berlin area in particular. The recently negotiated Berlin accords hold out hope of a significantly improved atmosphere for East-West relations throughout Europe. In fact, I believe that it is safe to say that the success of NATO has contributed to a rethinking of Moscow's objectives in the post-Stalin era.

But the past successes of the North Atlantic Treaty Organization do not in themselves warrant our blind allegiance to existing policies. But there are a number of considerations which must be given to any fundamental shift in our Nation's foreign policy.

I think that it is extremely important for all of us to remember that the Constitution charges the President with responsibility for the execution of our foreign policy. If the U.S. foreign policy is to be a success, it must be credible. If it is to be credible, it must be coherent. Thus, we cannot speak to the rest of the world with more than one voice.

Over the last quarter of a century, the Congress has participated in the formation of this policy by ratifying the NATO Treaty, appropriating the funds necessary to implement it, by confirming the various military and diplomatic personnel needed to fulfill America's commitments to NATO, and so forth. Now the Senate, via the appropriations procedure, seeks to precipitously and arbitrarily alter the foreign policy of the United States and perhaps more significantly to usurp from the President, his responsibility for the implementation of said policy. For a Senate which talks a great deal about Presidential credibility, I think it is significant to note that it is not the credibility of the Senate that is at stake in this matter, but the credibility of the United States in its dealings with nations overseas.

I would remind my colleagues in the Senate that the President of the United States is not opposed to a reduction of U.S. forces in Europe. President Nixon's willingness to expend every effort in the search for a just peace is reflected in his willingness to journey to Peking and Moscow, the capitals of our two most formidable adversaries. While in Moscow, it is clear to everyone that the President will be seeking to achieve the reduction of Soviet forces in Eastern Europe to correspond with our reduction of forces in Western Europe. The Deputy Foreign Ministers of the NATO nations recently met to discuss the issue of mutual and balanced force reductions. Manlio Brosio, former Secretary General of NATO, has been asked to travel to Moscow to "explore" the possibilities of initiating MBFR talks. It would be tragic for the U.S. Senate, at this moment in history, to arbitrarily force a unilateral reduction of American manpower in Europe, thus scuttling a perfect chance for a negotiated settlement that could significantly improve the chances of building a lasting peace.

The unilateral cutback of American troops would have an unsettling effect on the Europeans. Our intentions, as well as our will, to carry out our commitments are being questioned. A less secure, less stable, less confident Europe is much more likely to follow policies which will serve to lessen our influence. Thus, they will follow economic, political, military, and diplomatic policies that may run counter to our national interest.

The Middle East is an especially explosive area of the world at the present time and NATO's southern flank extends into this region. In addition, the 6th Fleet patrols the Mediterranean Sea. An arbitrary percipitous cut back now would obviously diminish our ability to maintain the balance of power necessary to insure Israel's security. It would diminish our ability to counter the Russian buildup in the eastern Mediterranean area, and it would further diminish our influence in the remaining pro-Western Arab States—many of which are rich in oil and vital to the economic health of the Western World.

Mr. President, in conclusion I would simply remind my colleagues in the Senate that President Nixon will shortly be journeying to Moscow in an effort to lessen tensions and improve the chances for building a "generation of peace." Whether some of my colleagues in this Chamber are willing to admit it or not, I think history is going to tell us that President Nixon, during his first term in office, clearly and correctly perceived the changes that have taken place in the world today. He may already have achieved for himself the status of being a great President, because he has modernized and redirected our foreign policy in keeping with the needs of the last third of the 20th century. I enthusiastically support the amendment which will strike this provision from the defense appropriations bill. I believe that it is incumbent upon us to support those organizations, commitments, and forces which are working to promote the cause of peace. To do less would undermine the President's position as he prepares to meet with the leaders of the Kremlin. The Senate, by its vote on this measure, will tell the world whether the President goes to Moscow to deal with our adversaries from a position of strength or a position of weakness.

Mr. SCOTT. Mr. President. I think we must consider the consequences which will result from the precipitate action called for by section 744, which would require us to reduce our forces in Europe to some 250,000 personnel by June 15, 1972. Whatever may be said about this section, foremost in my mind is that it fails to take into account one cardinal fact—our forces in Europe are there in our own national interest.

This section calls upon us to reduce our forces by nearly 60,000 men. If we should carry out these cuts we would, of course, make a gift to the Soviet Union of removing and significantly weakening our defense posture in Europe, an area of vital importance to this Nation's security.

The Senate is aware that we are well along the path to serious talks with the Soviet Union and its Warsaw Pact allies on a number of important security matters. Together with 13 of the members of NATO, we have recently appointed Manlio Brosio, former Secretary General of that organization, to explore the willingness of the Soviet Union and its Warsaw Pact allies to enter into serious negotiations on the mutual reduction of forces in Europe. We hope he will soon visit Moscow—but the mere fact of this provision could influence the Soviets not to extend the invitation we have been momentarily expecting.

If we reduce our forces at this time, we shall also substantially reduce our bargaining leverage with the Soviet Union, for what incentive would that nation have to engage in talks about mutual reductions when we move by ourselves unilaterally to remove a substantial number of our own?

Beyond this, we have also indicated our willingness, with evidence of good faith on the other side, to prepare and actively to participate in a conference or conferences on European security. But once again the very success of these and other efforts lies in our willingness to maintain a strong bargaining position—which means our resolve toward Europe must not be lessened.

Clearly NATO's preparations for negotiations on mutual and balanced force reductions, and for a conference on European security would be endangered by a decision on our part unilaterally to reduce our forces.

First of all, such action would be a great shock to our Allies, who would leap to the conclusion that without prior consultation or discussion the United States would unilaterally abrogate the commitments made by its President to maintain its forces in Europe and not to reduce them without reciprocal action by our adversaries. In the disarray and confusion which could follow the adoption of this section, our Allies might well give up in despair the increased defense efforts

which they have begun or agreed to undertake toward improving the conventional posture of the alliance and toward a more equitable sharing of the common defense burden and which would amount to over $1 billion. They might well be tempted to strike a bargain with the Soviet Union leading to an increase in its power and influence in Europe, filling the gap left by the withdrawal of the United States.

Section 744 would constitute a giant blow at the foundation of a policy that has been painstakingly constructed in cooperation with our allies since the end of World War II—looking to the day that we seem to be rapidly approaching where both sides are convinced that negotiations are the way to a lasting peace. The fruits of this policy can be seen in the SALT, or in the successful conclusion of the first phase of the Berlin negotiations.

I cannot accept the contention that we should change at this critical hour a policy that has been carried forward steadily by five successive Presidents, backed by overwhelming bipartisan support. I fully support the view that our forces in Europe are there in America's interests; they are not there simply to protect Europeans—our involvement in two world wars on European soil fully substantiates this.

This provision, of course, strikes not only at our ground forces in Europe but at our air and naval forces as well. We have long been concerned with the build-up of Soviet power in the Middle East and particularly with the heavy arms supply program by which the Soviet Union has undertaken to support Egypt. Have we considered, Mr. President, the possible effects on the peace and stability in the Middle East of a significant withdrawal of our naval forces in the Mediterranean? I think this is a matter on which we all should reflect carefully before adopting this language.

I am aware of the desire to see the expenses devoted to the defense of this Nation used, when possible, to help stabilize the economy. But we must not be penny wise and pound foolish—if the forces were demobilized, obviously there would be some savings, but are we willing to see our overall defense posture reduced further? In addition, unless we are prepared to demobilize the forces we return to the United States, there would be no financial savings. I suggest the proponents of this section gather the economic facts entailed in bringing our forces home from Europe and weigh them carefully in light of the political and military consequences of this action.

At this point, let me warn against confusing appearance with reality. There is growing interest in detente and peace. Varying signs exist in all parts of Europe that now may be a time to make strenuous efforts in this direction. The administration is aware of this. Its policies reflect this. However, in Europe we have an ambiguous situation—Europe is in a period of transition.

On one side of the coin there are signs of an evident desire for detente. On the other side of the coin, the Soviet Union maintains in Eastern Germany 20 modern, well-equipped divisions as well as forces in Czechoslovakia and Poland. These are being continually improved. It maintains in Central Europe a modern, strong air force. This represents a force of some 520,000 men in Eastern Europe. Moreover, the Soviet Union is making efforts to modernize and develop the forces of its Warsaw Pact allies. There continues to be a rapid expansion of Soviet military activities in the Mediterranean and a concomitant growing of their influence there. The millennium has not yet embraced Europe.

In 1963, prior to the beginning of the era of flux that I have just noted, General Eisenhower called for a reduction of some of our forces from Europe. You will recall that at that time the United States enjoyed overwhelming nuclear superiority and the strategy of flexible response, which would give NATO strong conventional forces to deal with the age of nuclear parity, was still years away. General Goodpaster explained last year in his testimony before the Subcommittee on Foreign Affairs that General Eisenhower had, from the time we sent 4 divisions to Europe in 1951, assumed European progress toward unity that would eventually permit Western Europe to take over most, if not all, of this responsibility. General Goodpaster said that he believed circumstances that would permit that course without loss of what had been achieved had not come about.

Finally, I believe that there are fundamental misunderstandings about the role our forces play in Europe, the costs of maintaining them there, the impact withdrawal would have on our economic program, and a lack of appreciation for the political and military consequences of a United States withdrawal.

I have no doubt about the importance of recent developments in Europe, the sense of detente in the air, and the opening of new lines of communication to the East. However, I do have great doubt about any move which would significantly weaken our military posture in Europe at a time when we and the Europeans are engaged in serious efforts to make adjustments which can have a vital effect not only on the continent's future peace and security but on that of the United States.

NOW IS NOT THE TIME TO LEAVE EUROPE

Mr. DOLE. Mr. President, I rise to bring the attention of the Senate to the grave implications of the recent course proposed by the Appropriations Committee when it recommended that the troop authorization for the United States in NATO be slashed by 60,000 men.

The Senator from Kansas believes such a move would be detrimental to our relations with Western Europe at a time when the economic climate between the two continents is already strained. It would be ominous in a military sense, and it would be politically injurious to the United States. This action, if accepted by the Senate, would undermine the President's ability to effectively discuss troop levels when he visits Moscow next year. It would also reduce the potential for negotiated efforts toward mutual and balanced troop reductions in Eastern and Western Europe. It would lower the threshold for possible nuclear war by reducing conventional conflict capabilities, and in reality, it would create a greater strain on our finances than would our present deployment in Europe.

If passed by the Senate, the troop cut proposed by the Appropriations Committee would seriously undermine America's present strategy for sustaining peace in Europe. The greatest danger arising from this proposal is its timing which would have it implemented at the same time that the President will be visiting Moscow. This would make it most difficult for the President to discuss mutual balanced troop withdrawals from Europe with the Russians. It would also undermine the President's credibility for bargaining or negotiating on other matters, for the Russian leadership could become increasingly prone to thinking of the U.S. Senate as "Santa Claus."

Today, I would like to discuss the implications of this untimely troop cut proposal in the context of America's successful strategy for peace in Europe.

At the heart of the question of our force levels is the nature of our strategic objectives in Europe. These objectives are the result of plans which have continually been reviewed and subjected to critical scrutiny. These plans have enabled us to sustain a military and political balance calculated to insure the security and stability of Western Europe in a coherent manner.

OUR STRATEGY IN EUROPE REQUIRES MILITARY FLEXIBILITY

Now that more than 25 years have passed the Second World War, we now appear to be entering a period of negotiation with our adversaries. However, it is equally clear that these adversaries and particularly the Russians are as willing as ever to use their military power to promote their own political advantage to our detriment.

Our NATO strategy must counter the military and political might of the USSR. To do so it must be threefold. It must deter war in Europe and provide the Europeans with enough strength to conduct effective negotiations with the USSR and its allies. If deterrence should fail it must ultimately enable the NATO alliance to defend itself successfully. If it is to do so, it must anticipate the entire range of possible threats from conventional to nuclear, for if NATO is to operate as an effective military deterrent, it must have convincing responses to all possible Warsaw Pact initiatives. Today, NATO has such capability but more than ever it is necessary that we sustain NATO's conventional forces capability. We are at a stage when we have nuclear parity—a general and regional nuclear standoff with the Soviets—but under today's conditions great nuclear power capability is no longer a guarantee of military stalemate due to the unacceptable risks inherent in its use at any level.

RELIANCE ON TACTICAL NUCLEAR WEAPONS IS DANGEROUS

Reduction of our conventional forces in Europe without undermining NATO's flexible response strategy is dangerous for it implies huge risks in the event of conflict at any level. Soviet military might both nuclear and conventional—is grow-

ing. The Soviet military presence is expanding into the Mediterranean, Near East and Indian Ocean while their grip on Eastern Europe remains as tight as ever. Whether we meet this challenge depends upon the credibility of our military forces and especially our conventional forces.

Some proponents of troop cuts argue that we should rely more on tactical nuclear weapons in Europe so that we could reduce our conventional forces. While it is true that NATO has plans, procedures and ample means for the use of nuclear weapons at every level of conflict intensity, this is equally true of the Warsaw Pact. Therefore, if we initiated the use of nuclear weapons at an early stage of a conflict in order to avoid being militarily overwhelmed, we would face the real risk of retaliation in kind with the grim likelihood of escalation up to full strategic exchange.

Therefore, a strategy of greater reliance on tactical nuclear weapons would confront us with the monumental dilema of either risking military defeat or resorting almost at once to nuclear combat. In addition, a shift to such a strategy, would certainly involve vast damage to the society and economics of our allies in the event of a conflict. Such possibilities would seriously undermine both the European support for NATO, and United States commitment, for it could assure the destruction of Europe and increase the likelihood of general war with the attendant nuclear threat to the United States.

OUR PRESENT FORCE LEVEL IS JUST ENOUGH

As things now stand, NATO forces are of sufficient quality and size that they could conduct a realistic defense of Europe. Our ground forces in the key central region—even without France—are only slightly smaller than those of the Warsaw Pact and, with mobilization, would constitute a formidable military power. The two alliances would be roughly in balance after mobilization of their conventional forces. In short, any Warsaw Pact attempt to invade Western Europe today would require the use of force on such a scale that the Soviet Union is well aware that its own national survival would ultimately be risked. To reduce our NATO based forces now, without a corresponding reduction in Soviet forces, would clearly increase the military risks and decrease the political security of Western Europe. It would thus weaken the alliance and create in Europe—especially Germany—conditions conducive to a decisive political advantage for the Soviet Union.

THE POLITICAL AND LOGISTICAL INADEQUACY OF DUAL BASING

There are some who accept such risks, citing the apparently remote likelihood of a European conflict. They feel that we could do just as good a defensive job if we withdrew some of our forces on the understanding that they would be rapidly returned in the event of a crisis. The trouble with this is that we have already withdrawn 2⅔ divisions, on the understanding that they would return to Europe in a crisis. The transportation of these forces to the European theater will in itself strain our Air Force transport capacity.

Further reliance on forces stationed in the United States would require buying more transport aircraft and the additional prepositioning of equipment in Europe—both at very high cost. Such dual basing in the absence of adequate transportation would gravely weaken NATO. Dual basing would also seriously heighten a preconflict crisis of a political nature to a critical level. For such an overseas mobilization would carry with it to a crisis a momentum which could make conflict almost inevitable. In addition, one might also bear in mind the difficulties of coordinating and integrating United States and European forces on such short notice. In all probability this prospect alone would involve sufficient complexity to make the dual-basing concept wholly impractical as well as politically inadvisable.

FLEXIBLE RESPONSE REQUIRES 310,000 U.S. TROOPS

Our present strategy of flexible response is the best and safest means of sustaining our national security interests in Europe. However, this strategy will remain credible only as long as we maintain a sufficient conventional force level to meet aggression as far forward as possible and at any level of violence. The presence of our 310,000 men in the European theater constitute a force which has been carefully calculated to satisfy such a need. These 310,000 men are scattered from Greenland to the eastern Mediterranean. With a manpower deployment as thin as this, an arbitrary force reduction of 60,000 men—20 percent of our force—would leave dangerous gaps. As they now stand, our troops are a potent force and provide an essential alternative to nuclear conflict. They are the cornerstone of the whole alliance structure, a barometer of our commitment to the defense of Europe and at the heart of a strategy which places a high premium on reducing the risks of nuclear war.

A TROOP CUT WOULD REMOVE SOVIET INCENTIVE TO NEGOTIATE

We are now at a point when negotiations are underway or planned which could lead to far-reaching changes in Europe. We have been engaged in Berlin negotiations and SALT talks with the Russians. The possibility now exists for a conference on European security and negotiations with the USSR and Eastern Europe on mutual and balanced force reductions between NATO and the Warsaw Pact. A cut in our own forces before these various negotiations were concluded or even begun would undercut, if not defeat our overall diplomatic objectives in Europe. If the Soviets believe they can sit back and wait for us to reduce our forces unilaterally, they will have no incentive to make reciprocal reductions. For this reason alone the maintenance of our current force levels in Europe is vital until we have had a chance to test Soviet willingness to engage in serious negotiations.

The simple fact is that a unilateral reduction of our forces at this time would be interpreted by the Russians as well as our European allies as a reduction of our political commitment to defend Europe.

A TROOP CUT NOW WOULD SERIOUSLY UNDERMINE THE PRESIDENT AT MOSCOW

Next spring, President Nixon will journey to Moscow and his agenda will be certain to include a discussion of troop reductions in Europe as well as possible moves to lower tensions in other areas of the world. If the Senate gratuitously offers the Soviets a unilateral reduction of our forces in Europe how can the American people expect their President to persuade the Russian leadership to do likewise? What can he offer in exchange? The major reduction called for in this bill would seriously diminish the negotiating position and even the leadership credibility of the President. For who in Moscow could deny the possibility of other unilateral cuts of American strength elsewhere on the globe by the U.S. Senate?

The Senator from Kansas believes that a "summit" meeting calls for statesmanship and coherency of purpose by all branches of U.S. Government. If the President is to have the respect of his Soviet counterparts, he must have options available for purposes of negotiation. A unilateral troop cut could undermine the President on the eve of his visit to Moscow and diminish the prospects for useful agreements there.

WE MUST REMEMBER

If we were to adopt the reduction of our force level for NATO by 60,000 men we would bring heavy pressures on our European allies to reach accommodations with the Soviet Union and Eastern Europe. Such a development would not be in the national interest of the United States. In recent months and for weighty reasons of national well-being, the United States has imposed its trading partners in Europe—and elsewhere—a 10-percent import surcharge. This move has had particularly strong effects upon our friends in Western Europe, since they have traditionally exported manufactured goods to this country.

If we were to compound the political and economic strains arising out of these economic difficulties with the Europeans by staging a major reduction of our troop levels in NATO, the effect would be highly suggestive of isolationism and diminished American commitment to Western Europe. The balance of power which we have sustained there to contain the imperial ambitions of the Soviet Union would be seriously undermined.

ISRAEL COULD BE WEAKENED BY THE TROOP CUT

The troop cut proposed in the appropriations bill will injure the credibility of U.S. commitments beyond Europe. All of the world is aware of the paramount importance which the United States has historically assigned to Europe as a strategic theater. If we diminish our credibility there by a 20-percent troop cut, how can Israel and the other nations of the Middle East watch unmoved? The friendly and moderate Arab

States will be weakened and will turn more toward the Soviet Union. The radical states in the Middle East will be emboldened. Ultimately, the position of the Soviet Union in the Middle East would be enhanced politically, if not militarily.

The reduction by 20 percent of U.S. troops in Europe as suggested in the pending legislation would weaken our already thinly deployed troop levels across the board. This would affect our troop strength on the southern Mediterranean flank of NATO, and would diminish our ability to contain a conflict situation in the Mediterranean area and specifically, from Israel's point of view, the Middle East.

THE LESSONS OF HISTORY

History clearly shows us how the nations of Europe react to perceptible shifts in political and military commitments. One need look back no further than Soviet-Nazi nonaggression pact or the course of Finland in recent years to appreciate the fact that nations react to preserve their own interests. The interests of Western Europe following diminished American commitment to NATO would flow in the direction of political and economic accommodations with Eastern Europe and the Soviet Union. Such a shift by Europe could only accrue to the immense benefit of the Soviet Union.

I do not believe that conflict is likely to occur in Europe, although possibilities certainly exist there. However, governments must act to cover their bets when political shifts occur and weakened American commitment to NATO would assuredly change the political and military balance in Europe.

The lessons of history show us clearly that the best diplomatic policies are those which prevent weakness and avoid excessive military burdens. I believe that the President is following such a course. We seek stability in Europe and the normalization of Western relationships with Eastern Europe and the Soviet Union. We seek to preserve the independence of all nations and to promote their self-reliance. In Europe we can achieve this by coherent and timely behavior designed to promote successful negotiations between NATO and the Warsaw Pact. We can only expect such understanding to evolve from positions of mutual respect and capability. The troop cut would defeat this objective at the very time that the President would travel to Moscow in pursuit of it.

The proposed troop cut is badly timed. It would defeat our strategic interests in Europe and it would diminish prospects for great power troop negotiations. It would weaken the President at Moscow. I urge that the troop cut proposal be defeated.

Mr. MATHIAS. Mr. President, it is apparent that our friends in the Atlantic community are decidedly uneasy about our intentions for the future. They hear us talk about unilateral reduction of troops stationed in Europe and they feel the impact of unilateral economic steps already taken by the United States. To actually reduce our NATO troop levels without consultation would confirm their worst fears.

We need to have a better relationship with Europe today than at any time since World War II. Europe is our major trading partner. Europe provides vital elements in our defense system. European central banks perform a necessary service in stabilizing the dollar in international money markets.

But we should have a coordinated policy to achieve a reduction in the number of all men under arms in Europe. A constructive alternative to a unilateral cut is the resolution I submitted which proposes a consistent and reasonable approach to that goal. While that resolution is not in order in this debate, I ask unanimous consent that it be printed in the RECORD. I express the hope that it may receive early consideration by the Senate.

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

RESOLUTION

Resolved, That it is the sense of the Senate that:

1. The United States should revitalize its policy of support for the North Atlantic Alliance and reaffirm the policy of the United States for full partnership in the defense of the entire Atlantic Community on the basis of self-help and mutual support; and

2. The United States should actively seek mutual and balanced force reductions to be brought about through consultations among the NATO Allies with view toward negotiations between the NATO powers and the members of the Warsaw Pact; and

3. The United States should continue consultations with its Allies on the level of American forces required on the Continent to preserve the Atlantic defense potential and on the apportionment of troop reductions among the members of the alliance in event of agreement with the Warsaw Pact powers on mutual force reductions; and

4. In the absence of troop reductions between NATO and the Warsaw Pact, troop reductions undertaken by the Soviet Union, or a significant strengthening of Western European defense capacity, the United States should make no substantial reduction in the current level of its forces deployed in Europe before June 30, 1973, at which time the United States should determine with its European Allies the level of American forces required for Western defense; and

5. The United States should seek, with its European Allies, to immediately improve the effectiveness of forces deployed in Europe and to encourage the development of a common Western European defense effort within the framework of NATO; and

6. The United States should continue to support steps furthering the progress of *detente* in Europe, in ways best designed to maintain the strength of the Atlantic Alliance and reassure its European Allies of its continued commitment to their peaceful development; and

7. The United States should undertake with its European Allies to resolve the current monetary and trade crisis, with a particular view toward augmenting the total strength of the peoples constituting the Atlantic Alliance, while building a new structure of international economic relations for the benefit of all nations.

Mr. KENNEDY. Mr. President, the amendment of the Senate majority leader which was adopted by the Senate Appropriations Committee establishes a reasonable reduction in the size of U.S. forces committed to NATO and stationed in Europe.

I also want to emphasize that the reduction is modest, approximately 50,000, and surely it cannot be argued that this is a new or unexpected development.

Over the past 6 years, the distinguished majority leader has continually sought to bring both Democratic and Republican administrations to face the issue of "How much is enough?" to meet our commitment to NATO.

I joined as a cosponsor of those amendments which were aimed at inducing the executive branch to negotiate a reduction of our share of the NATO burden. The resolutions also were aimed at encouraging negotiations with the Soviet Union to achieve mutual reductions in NATO and Warsaw Pact forces. Yet neither avenue has been pursued with the vigor demanded by the times.

That is why I believe the reduction of 50,000 men is a necessary step to bring our commitment of troops to NATO into line with present reality.

We must recognize that the stage on which we act is far different today from what it was 20 years ago.

The progression of events has made it necessary for us to reshape the responsibilities of the nations of the North Atlantic Alliance to reflect those changing events.

The enormous and positive developments in Europe—economic, political, and social—have occurred without an equivalent adjustment in the internal structure of the Alliance.

There has been a tripling of the per capita gross national product of the Federal Republic of Germany over the past two decades. That is only one indication of the massive changes which have occurred in the capacity of the various nations to contribute to Atlantic security.

The achievements of the Common Market and the impressive beginnings of an all-European space program are further evidence of the changes which have occurred in the past two decades which require an adjustment in the relative shares of the member nations.

I believe it would be unfortunate if we failed to recognize the changes which have occurred and opted for the maintenance of the status quo in the internal relationship of NATO.

This means a greater leadership for Europe within the Alliance. The action last year of the Euro-group should be seen as part of the natural expression of an expanded leadership role by the European nations commensurate with their increased capacities.

And in keeping with that capacity, I believe that a much greater share of the command decisions should be European.

What this also entails in my view is a decrease in the form of the U.S. commitment to the defense of Europe—not in the commitment itself.

It can be said quite clearly and has been in the past, that the first line of defense of the United States is in Europe. That is undoubtedly true. But in many more ways, we have continuing commitment to the security of Europe.

And it is in the context of a change in form not of substance that I believe the two seemingly contradictory elements of a reduction in U.S. troops and a reaffirmation of the U.S. commitment can occur.

I believe that a 50,000-man reduction should not be seen as a reduction in the U.S. commitment and I hope that others will confirm my view that we are willing to accept a long-term commitment for a substantial force level to NATO.

It is in that context that I believe the reduction proposed in the current bill does not reflect a turning away from Europe.

Also, I believe that the comparative troop levels of NATO and the Warsaw Pact demonstrates that this reduction in no way reflects a surrender to a tripwire policy.

Composite statistics from the London Institute of Strategic Studies and the Department of Defense, which were placed in the RECORD last May 13 and which I ask unanimous consent to place in the RECORD again, demonstrate that the NATO division forces have actual manpower of 725,000 men available in the center region compared to 591,000 for the Warsaw Pact.

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

APPENDIX I

TABLE 1.—WORLDWIDE NATO AND THE WARSAW PACT, MID-1970

	NATO[1]	Warsaw Pact
Manpower:		
Army	3,360,500	2,822,000
Navy	1,029,500	529,500
Air Force	1,340,250	574,000
Total men	5,730,250	3,925,500
Combat aircraft	10,074	12,535
Nominal combat aircraft value	$30,600,000,000	$19,200,000,000
Total Defense budget	$75,526,000,000	[2] $47,158,000,000

[1] Excludes U.S. manpower, combat aircraft, and portion of Defense budget dedicated to Vietnam. Includes France.
[2] At U.S. prices. That is, the United States could "buy" the Warsaw Pact forces—pay the men at our pay scales and build the equipment in our own factories—for about $47,200,000,000 per year.

TABLE 2.—WORLDWIDE NATO AND WARSAW PACT FORCES, OCTOBER 1968

[Excluding U.S. increases for Vietnam]

	NATO	Warsaw Pact
Manpower:		
Army/Marines	3,000,000	2,850,000
Navy	1,070,000	470,000
Air Force	1,400,000	880,000
Total men	[1] 5,470,000	4,200,000
Tactical aircraft:		
Total inventory	11,500	9,000
Nominal inventory value	$27,000,000,000	[2] $16,000,000,000
Total Defense budget	[3] $75,000,000,000	[4] $50,000,000,000

[1] This total includes the forces of France.
[2] Approximate.
[3] Does not include U.S. costs for Vietnam.
[4] At U.S. prices. That is, the United States could "buy" the Warsaw Pact forces—pay the men at our pay scales and build the equipment in our own factories—for about $50,000,000,000 per year.

TABLE 3.—THE MILITARY BALANCE BETWEEN NATO AND THE WARSAW PACT, 1970

Ground formations	Northern and Central Europe			Southern Europe		
	NATO	Warsaw Pact	(Of which U.S.S.R.)	NATO	Warsaw Pact	(Of which U.S.S.R.)
CATEGORY						
Ground forces available to commanders in peacetime (in division equivalents):						
Armored	8	31	19	6	12	3
Infantry, mechanized and airborne	16	38	21	28	22	3
Manpower (in thousands):						
Combat and direct support troops available	580	900	585	525	370	74
Tanks: Medium/heavy tanks available to commanders:						
in peacetime	11,000	14,000	8,000	2,100	5,000	1,400
Air forces: Tactical aircraft in operational service:						
Light bombers	16	240	200	----------	30	30
Fighter/ground attack	1,400	1,300	1,000	600	200	50
Interceptors	350	2,000	900	250	850	450
Reconnaissance	400	400	300	100	100	40

TABLE 4.—THE MILITARY BALANCE BETWEEN NATO AND THE WARSAW PACT, 1969

Ground formations	Northern and Central Europe			Southern Europe		
	NATO	Warsaw Pact	(Of which U.S.S.R.)	NATO	Warsaw Pact	(Of which U.S.S.R.)
CATEGORY						
Ground forces available to commanders in peacetime (in division equivalents):						
Armored	8	30	19	6	11	3
Infantry, mechanized and airborne	16	35	20	27	23	4
Manpower (in thousands):						
Combat and direct support troops available	608	925	600	525	375	100
Tanks: Medium/heavy tanks available to commanders:						
In peacetime	5,250	12,500	8,000	1,800	4,600	1,300
Air forces: Tactical aircraft in operational service:						
Light bombers	50	260	220	----------	60	60
Fighter/ground attack	1,150	1,285	820	550	215	105
Air forces: Tactical aircraft in operational service:						
Interceptors	450	2,000	885	300	860	295
Reconnaissance	400	250	220	125	50	40

APPROXIMATE STRENGTHS OF MILITARY FORMATIONS

Country	Division (in men)			Infantry brigade (in men)	Squadron (in aircraft)		
	Infantry	Armor	Airborne		Bomber/fighter-bomber	Fighter	Transport
United States	16,000	15,500	13,500	4,000–5,000	12–15	18–25	16
Soviet Union	10,000	8,250	7,000	2,000	9–10	10–12	8–10
China	12,000–14,000	10,000	6,000	3,000	9–10	10–12	8–10
Britain	12,000–15,000	12,000–15,000	----------	4,000–6,000	8–10	12–14	9–12
France	14,000	16,000	14,000	3,500–4,000	4–12	12–15	16
Germany (West)	15,500	14,500	----------	3,000–4,000	15–20	15–20	12–18

Sources: Department of Defense, Office of Systems Analysis; The Military Balance, 1970–71, Institute of Strategic Studies, London.

APPENDIX II

TABLE I.—NATO AND WARSAW PACT FORCES (CENTER REGION), MID-1970

	NATO	Warsaw Pact
Land forces—M-Day:		
Divisions	[1] 22	[2] 45
Manpower in divisions	319,000	384,000
Manpower in divisions forces	725,000	591,000
Riflemen (NATO as percent of pact)	98	
Equipment (NATO as percent of pact):		
Tanks	[3] 85	
Antitank weapons	150	
Armored personnel carriers	130	
Artillery and mortars (number of tubes)	[4] 100	
Divisional logistic lift	150	
Total vehicles	135	
Engineers (percent)	137	
Tactical air forces:		
Combat aircraft	2,000	2,500
Percentage of force by mission deployed in Europe	20	40
Percentage of force by mission capability (center region):		
Primarily interceptors	10	
Multipurpose fighter/attack	48	15
Primarily attack	9	6
Reconnaissance	13	8
Low performance	20	29
Total (percent)	100	100

[1] Includes 5 French divisions.
[2] 22 of which are Soviet and 23 of which are East European, including 8 Czech.
[3] NATO tanks are generally more modern. The "relative weakness" in tanks reflects NATO's essentially defensive role.
[4] NATO is likely to have superior firepower because of the greater lethality of its ammunition and the logistic capability to sustain higher rates of fire.

Note: Effectiveness—NATO has some superiority in sophistication of equipment (i.e. payload loiter capability) the capability of its aircrews, which have in general higher training standards and fly more hours, and the versatility of its aircraft. The NATO countries also have a worldwide inventory of aircraft far greater than that of the Warsaw Pact and in a situation where total reinforcement can be taken into account would have the greater capability.

TABLE II.—CENTER REGION NATO AND WARSAW PACT FORCES, MID-1968 DATA [1]

	NATO [2]	Warsaw Pact [3]
Land forces—M-Day:		
Divisions	28⅔	46
Manpower in divisions	389,000	368,000
Manpower in divisions forces	677,000	619,000
Riflemen (NATO as percent of Pact)	100	
Equipment (NATO as percent of Pact):		
Tanks	60	
Antitank weapons	150	
Armored personnel carriers	130	
Artillery and mortars (number of tubes)	100	
Divisional logistic lift	150	
Total vehicles	135	
Engineers (percent)	137	
Tactical air forces:		
Number of deployed aircraft	2,100	2,900
Percentage of force by mission deployed in Europe	20	4
Percentage of force by mission capability (Center Region):		
Primarily interceptors	10	42
Multipurpose fighter/attack	48	15
Primarily attack	9	6
Reconnaissance	13	8
Low performance	20	29
Total (percent)	100	100
Effectiveness indicators (NATO as percent of pact):		
Payload	280	
Typical loiter time	[4] 250–500	
Crew training	180	

[1] These data relate to the situation prior to the Czechoslovakian crisis. Revised figures have not yet been established but they are unlikely to make a significant difference in the rough balance portrayed in this table. Center region includes West Germany, Belgium, Netherlands, and France for NATO; East Germany, Poland, and Czechoslovakia for the Pact.
[2] Includes 5 French divisions.
[3] 22 of which are Soviet, and 24 of which are East European, including 8 Czech.
[4] Range depends on tactical mission profile assumed.

Mr. KENNEDY. Thus, a reduction of 50,000 men does not in any way reflect a massive deterioration in the conventional military capability of NATO forces, as has been threatened.

In fact, if the composition of our forces were examined, I believe that the 50,000 reduction, when combined with reduction in the numbers of generals, a reduction in the numbers of support troops and a reduction in the numbers of headquarters, can occur without reducing significantly our combat capability.

After this matter was presented to the Military Committee of the North Atlantic Assembly meeting in Ottawa, of which I am cochairman, a resolution was adopted calling for a review of the organizational structure of the military forces.

The resolution which I introduced was specifically aimed at the U.S. force in Europe and at the current ratios of combat to support troops and the numbers and roles of headquarter units in relation to the forces they command. The resolution was later adopted by the General Assembly. I ask unanimous consent to print this resolution in the RECORD at this time.

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

RECOMMENDATION 11 ON THE MOST EFFICIENT USE OF MILITARY MANPOWER [1]

The Assembly,

Considering that the most efficient use of the available manpower of NATO forces will promote the defence objectives of NATO and the security of Europe;

Considering that there are different organisational structures within the military forces of the different member nations;

Considering that it would be desirable for any changes in force by any member country of NATO to be made in conjunction with a reorganisation of the remaining forces;

Recommends to the Defence Planning Committee of NATO that:

(a) it should undertake a review of the organisational structure of the member nation forces assigned to NATO, paying particular attention to the ratio of combat to support troops and to the numbers and roles of headquarter units in relation to the forces they command;

(b) it should recommend possible steps each nation might take to reorganise its forces in order to achieve an improved capability for the defence of Europe;

(c) it should report on the results of allocating NATO Headquarters and shape in the Brussels area and, according to its findings, recommend next steps to improve their efficiency.

[1] Presented by the Military Committee.

Mr. KENNEDY. Briefly, the question which the chairman of the Senate Armed Forces Committee also raised during hearings on the military manpower authorization bill this year is the following.

U.S. forces in Europe include 4⅓ combat division forces, approximately 200,000 men, very few of whom are actually combat troops.

The vast majority of those troops are support troops. Within the division force there is a 16,000 combat element, a 16,000 initial supporting element, and a 16,000 sustaining support element. In fact, even within the 16,000 combat element, there are 9,000 complementary supporting troops.

While it can be legitimately argued that the combat troops could not exist without the 9,000 complementary supporting troops, and perhaps a similar argument could be made for portions of the 16,000-man initial supporting element, the 16,000 sustaining support element is a totally different matter. They are designed to provide additional support in a time period long after any initial attack. They could easily be airlifted to Europe if they are needed at all.

In addition, we have some 7,000 officers and enlisted men assigned to headquarters commands, including 128 generals or flag officers.

So it is that I believe a 50,000-man reduction in our NATO forces can be accomplished without any major reduction in our combat capabilities. Surely the proposed reduction does not entail the horrendous results that the opponents of the committee amendment are suggesting.

Nor does this step reflect a rejection of the route of mutual balanced force reductions as the ultimate method for ending the present situation of two armed camps straddling the European Continent. If anything, it reflects a U.S. declaration of its readiness to enter into such negotiations.

Thus, I would hope that the legislative history would make clear that any further substantial reductions in the

force level would take place only through mutual balanced force reductions.

Mr. President, I want to emphasize that our commitment to Europe is firm. We are not calling for a complete withdrawal of U.S. troops, nor do I believe that would be in the interest of the United States or in the interest of peace.

For 26 years, U.S. forces have garrisoned Europe. For 26 years, we have talked of the European nations assuming a greater share of the burden of their defense. Yet for 26 years, we have watched the support and logistical tail of our divisions curl around the Continent of Europe.

The time has come to end U.S. domination of the alliance and to permit the European nations to take a greater share of the military burden.

Mr. COOPER. Mr. President, the time for debate on the amendment of the distinguished majority leader, Senator MANSFIELD has been limited to 40 minutes in support and 40 minutes in opposition to the amendment. I oppose the amendment and I will vote "no" on retaining the Mansfield amendment in the pending Department of Defense appropriation bill.

As time is limited, there is no opportunity to give my reasons for opposing the Mansfield amendment.

When a similar amendment was last voted upon, on May 13, 1971—although the reduction sought there was 150,000 rather than 50,000 as in the pending amendment—I spoke upon the subject. I am therefore taking the liberty of placing in the RECORD—in small print—my speech at the time. The reasons I gave then are applicable at this time.

In fact, I believe it is even more important today to reaffirm our adherence and position in NATO, for it appears there is the possibility of serious negotiation on the subject of mutual and planned troop reduction of NATO and Warsaw Pact forces. This type of agreement cannot be secured by unilateral reduction of its forces by the United States.

The speech follows:

STATEMENT BY JOHN SHERMAN COOPER

Mr. President: It is not often that I differ with the distinguished Majority Leader, Senator Mansfield, on questions concerning foreign policy. He is universally respected for his integrity and judgment. But on this issue—the reduction of U.S. forces in the NATO alliance without any corresponding reduction of Soviet forces—I must differ with the Majority Leader and oppose his amendment.

Senator Mansfield's amendment to reduce United States forces committed to NATO has raised a fundamental question. It is a fundamental question that affects the basic security of this country. The amendment to cut United States forces by 150,000 troops poses a serious challenge to the strength and indeed the future existence of the NATO alliance and to the security of the United States.

What is at issue is whether continued U.S. military support of the NATO Alliance is in the United States interest. What is also at issue is whether the policy of deterrence—to prevent war with the Soviet Union, to prevent a nuclear war—that has evolved since the end of World War II will remain in force.

Senator Mansfield has raised valid questions about the cost of United States participation in NATO. Also, it is a valid question whether the actual contribution to NATO made by our European Allies is a true reflection of their economic capabilities and their security concerns.

We cannot minimize the cost the United States has paid and continue to pay to keep the NATO Alliance strong. Over three years ago, in preparing a report for the Military Committee of the Atlantic Assembly, I obtained an estimate of the cost of NATO to the United States from an analysis made for me by the Department of Defense. For the first time, it was revealed that the manpower—ground, air, naval—materiel and all attendant costs of the NATO mission in Europe, in the United States and on the sea, is about $14 billion a year. $3 billion of this $14 billion is for direct support of the approximately 250,000 military personnel we now have in Western Europe.

If the cost of the Sixth Fleet is included, the actual operating costs for our forces and dependents in Europe is about $7 to $8 billion. The remainder is for forces stationed in the United States, for ships and air power positioned in the United States and in the Atlantic and elsewhere, which, in the event of a war in Europe would be sent to reinforce NATO forces. But, as others have pointed out in this debate, and this must be emphasized—the forces cost to the United States would be reduced little, if at all, by the withdrawal of the forces proposed by the amendment before us, unless they were discharged from the service.

If we consider the NATO Military Alliance as necessary for deterrence, as a means of assisting in the prevention of war and a nuclear war and thus necessary for the security of the United States—and I do not believe this concept can be successfully challenged—then we must consider our cost in relation to that of our allies. The United States' contribution of $14 billion to the NATO mission is more than matched by the amounts spent by our NATO partners which is over $22 billion annually.

As for manpower, our allies supply by far the largest share, 20 divisions, while the United States provides 4⅓ divisions. The combined Gross National Product of Western Europe is somewhat smaller than that of the United States. Its total population is about ⅓ larger than the United States. In almost every respect I do not think that it can be argued that the Europeans have not made a substantial contribution to the NATO Alliance. And, now, since and largely because of, the announcement of President Nixon's desire to maintain U.S. strength in Europe and because of his determined efforts and that of Secretary Rogers in the NATO Council and of Secretary Laird, our NATO partners are strengthening their military capabilities and contributing large sums of the Alliance.

The Mansfield "sense of the Senate" resolutions of past years, even though not acted upon by the Senate or the House, have had good effect in urging upon our NATO allies in Europe the necessity of taking the action of improving qualitatively their active forces and reserves, of making contributions to infrastructure solely as English and European undertakings. Our allies are taking these steps today. I believe the passage of this resolution would only serve to undercut the common action of the United States and our allies in strengthening the NATO position and an immensely important objective I now want to discuss.

The joint effort of the U.S. and our NATO allies now positively underway is to provide greater assurance that conventional war and above all, a nuclear war, will continue to be deterred.

Prior to the present program of strengthening qualitatively NATO forces and improving defense facilities and infrastructure, NATO recognized its inability to stand for any length of time against well-armed Soviet and Warsaw Pact forces possessing a capability of speedy mobilization and reinforcement. NATO relied upon the so-called "trip wire" strategy—that is the strategy of meeting a Warsaw Pact attack by the use of tactical nuclear weapons, a situation which all agree would rapidly escalate into all-out nuclear war.

Four years ago NATO adopted the strategy of "flexible response" which had as its purpose a lessening of the likelihood of any kind of war, conventional, tactical or strategic. It was determined that NATO conventional forces should be strengthened to resist any probable attack. Over the past three years and particularly in the last year, significant qualitative improvements have been made. Deficiencies remain, but NATO's deterrent role has been considerably strengthened.

If the forces proposed in the amendment before us should be removed, together with their equipment, the result would be a thin "trip line" across Europe and an increase in our allies' forces could not fill the gap left by U.S. departure. There is no question that a reversion to the "trip wire" strategy which would inevitably follow might cost the United States less in dollars than we spend today, but it would increase the danger of a nuclear war.

I am concerned about the nuclear arms race and all its wasteful costs. All of us are concerned that it will result in an instability that will weaken the present nuclear deterrent and will make nuclear war more likely.

In a very important way, the SALT talks will tell us the direction of our future security. The SALT talks are an attempt by the two great super-powers to institutionalize a new concept of security. That new concept is Parity, or, as President Nixon has defined it, "sufficiency." It is based on the belief that neither super-power can achieve a significant superiority in destructive power over the other. It is a belief that any new developments in technology can be matched, and that neither side can produce enough weapons, no matter how powerful, to overcome the other. The SALT talks are unique in the history of the world because if they are successful neither side will gain any strategic advantage, and both sides will be greatly benefited. If the talks are successful, the great stockpiles of weapons whose destructive force is equivalent to that of 15 tons of TNT per every person on earth can be reduced, equally on both sides, to considerably less than each side now possesses.

In Europe the NATO and Warsaw Pact forces are now at Parity. There is a balance in manpower and weaponry. Neither side has enough superior strength in any category—men or materiel, which cannot be matched by the other side.

I attach, as an appendix, to this statement, the comparative forces of the NATO and Warsaw Pact. I think these tables will show that it is unlikely that either side would launch an attack. It is unlikely because the military facts are such that the result would be, at best, stalemate, and at worst, complete annihilation on both sides, or indeed the entire world.

The United States relies upon the NATO alliance because we do not have the strength to remain secure by ourselves. There is no alternative, except to join with the Western European countries in a common effort to deter war. With our allies, the combination of our joint wealth, manpower and military force, provides for the United States and Western Europe a balance which more than matches the power and the economic resources of the Soviet Union and its allies. Given the existing military strength and economic resources of the Soviet Union and its allies, it is in our interest to have a strong NATO.

By this, I do not mean reductions cannot be made. But, if NATO reduces its forces, it

must do so under two conditions—conditions that seem to me reasonable. If we are at parity now with the Warsaw Pact, reductions that are made in NATO should be made mutually by both super-powers. Comparable reductions would have to be made by the Warsaw Pact forces. And, secondly, it only makes sense to make no unilateral reductions unless they are a result of a joint decision of all the NATO allies.

I do not know, and none of us knows Soviet intentions. It seems unlikely that a sensible government would take military action that could lead to war and nuclear war. But we do remember Czechoslovakia, we see the growing strength of Soviet conventional and strategic forces, and Soviet movement into the Mideast and Mediterranean. We know that NATO must have had effect in deterring action in Europe.

I am hopeful at this time when the Soviet Union and the United States are encouraged in negotiations to halt the strategic nuclear arms race at a time when initiatives are being taken toward a settlement of issues which have caused tension and threatened the peace in Europe, as evidenced by West German efforts toward a treaty with the Soviet Union and Poland and bettering relations with East Germany; and at a time when the four powers are attempting to settle the difficult questions concerning Berlin; at a time when the countries of Europe are moving toward greater unity we will not take this step toward disunity, toward a "trip wire" nuclear strategy, toward a lessening of our security.

For these reasons, I cannot support Senator Mansfield's amendment, and I would urge the Senate to continue its support of the NATO Alliance at its present levels, until such time as mutual reductions of forces by the two opposing Pacts can be made. I think greater efforts should be directed toward this end, but, in the meantime, I believe the present course to be the correct one.

In my view, NATO is vital to American security. In the present day in Vietnam, we are engaged in a war and in an area which I do not believe is vital to our security. The Congress and the country desire to get out of the entanglement of Vietnam, with its cost in lives and treasure. We are extricating ourselves from that tragic involvement, but we should not unwisely withdraw from an alliance which has brought us security in the past and which continues to have meaning now.

I consider the maintenance of our present position in NATO under all these conditions an instrument of peace.

Mr. STENNIS. Mr. President, I yield back such time as I may have with the exception of one-half minute, which I yield to the majority leader.

Mr. MANSFIELD. Mr. President, mutual force reduction—if we get it in 10 years, we will be lucky. If we get it in two decades it may be a possibility.

I ask unanimous consent that I may have printed in the RECORD at the conclusion of my remarks a statement made by President Eisenhower and myself which I think will be a counterpoise to the 16 ambassadors, in which he said he had his views as President but because of the delicacy of the question he held for peace, but when he came out of office he said one division would be enough.

What about the 70,000 aliens working at American installations? Just lately have they allowed wives of American servicemen to do KP. Think about that and think about a lot of other things, too.

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

STATEMENT

Reduction in NATO forces has been long talked about. As far back as 1963 in the Saturday Evening Post, President Eisenhower said:

"Though for eight years in the White House I believed and announced to my associates that a reduction of American strength in Europe should be initiated as soon as European economies were restored, the matter was then considered too delicate a political question to raise. I believe the time has come when we should start withdrawing some of those troops."

The same critics of troop withdrawals have repeatedly stated such a show of strength was necessary to sustain the morale of our European friends. That argument has worn pretty thin. President Eisenhower put it succinctly when he declared:

"One division can show the flag as definitely as several."

Mr. BYRD of West Virginia. Mr. President, the distinguished majority leader has long advocated and most persuasively argued for a withdrawal from Europe of a substantial number of U.S. forces. So far, his efforts to achieve that desirable end have engendered some agreement but little positive action.

Once again, he is in the vanguard of the forces of pragmatism and it is devoutly hoped that the Members of this body will accord the majority leader their support and assist him to superimpose realism and commonsense on a situation that is jeopardizing the economic future of the United States. And, Mr. President, when the economic future of our country is impaired, the security of our country is endangered.

There can be no argument that the Marshall plan and the formation of the North Atlantic Treaty Organization were sound economics and intelligent strategy. Our NATO allies after World War II were in tatters—their treasuries bare and their military capabilities in dangerous disrepair. We, too, had suffered grievously but of all the Allies, we were best able to finance and man the defenses that prudence dictated had to be established in postwar Europe. The United States assumed this responsibility and largely because we did, there has been peace in Europe for 25 years.

Mr. President, I would be the last to claim that our military presence in Europe stems only from altruism. Our own military security needs imposed the requirement that West Germany, France, Belgium, the United Kingdom, and the other NATO partners be not exposed nakedly to threats of aggression from any quarter.

What it cost the United States to station 300,000 troops and the myriad of ancillary services needed to maintain them was money well spent while we could afford it and while the nations of Europe were struggling to put bread in the mouths of their workers and shoes on the feet of their children. But, Mr. President, these are changed days. The majority of European countries are enjoying healthy growth rates and favorable foreign exchanges. I need not emphasize to Members of this distinguished body that only if the stringent economic measures now being taken by the administration are successful will we be able to extricate ourselves from the economic slough into which we have fallen. The assumption of a very large lion's share of military and financial responsibility while we were affluent was admirable—its retention in our current circumstances, in my opinion, is a disservice to the American people.

We are spending close to 7.7 percent of our gross national product on defense. Our NATO allies average but 4 percent of their GNP on their defense. Our persistent balance-of-payments deficit and the drain on our gold reserves go on apace. Is it not time, Mr. President, that we take what steps we can to alleviate in every way this deteriorating situation? Is it not time that we reordered our priorities and lowered our profile around the world? And is it not time to recognize that our continued and expensive presence in Europe could be substantially, yet safely, withdrawn? It is axiomatic, after all, that the economic well-being of the United States is as important to the overall security of the North Atlantic area as is our defense contribution. With the latter, we help. Without the former, we are helpless.

With their sound economic situations, the nations of the North Atlantic alliance are easily able to contribute substantially more to their own defense, but as long as we continue to bear the brunt, so long will they continue to say "Let Sam do it."

Mr. President, I do not advocate for a moment that the United States should withdraw behind the fastnesses of our frontiers. I would be no party to our abrogating our duties and responsibilities to the world community. But, Mr. President, I feel strongly that we are carrying a disproportionate share of the load in Western Europe and that we will be allowed to continue in that role till we ourselves take positive action to balance the scale. Mr. President, the amendment offered by the distinguished majority leader would be a significant step in that direction and I urge my colleagues to vote for it.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. STENNIS. Mr. President, I ask for yeas and nays on the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment beginning with line 24, at the bottom of page 48.

Mr. STENNIS. Mr. President, a "nay" vote would be in opposition to the committee amendment for the reduction?

The PRESIDING OFFICER. That is correct.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ELLENDER. Mr. President, a "yea" vote sustains the committee? Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana

(Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is necessarily absent.

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

The Senator from Ohio (Mr. SAXBE) is absent on official business.

The result was announced—yeas 39, nays 54, as follows:

[No. 392 Leg.]

YEAS—39

Aiken	Hart	Montoya
Anderson	Hatfield	Moss
Bayh	Hollings	Nelson
Bible	Hughes	Packwood
Burdick	Inouye	Pastore
Byrd, W. Va.	Kennedy	Proxmire
Cranston	Long	Randolph
Eagleton	Magnuson	Ribicoff
Ellender	Mansfield	Stafford
Fulbright	McClellan	Symington
Gambrell	McIntyre	Talmadge
Gravel	Metcalf	Williams
Harris	Mondale	Young

NAYS—54

Allen	Dole	Miller
Allott	Dominick	Pearson
Baker	Eastland	Pell
Beall	Ervin	Percy
Bellmon	Fannin	Roth
Bennett	Fong	Schweiker
Bentsen	Goldwater	Scott
Boggs	Griffin	Smith
Brock	Gurney	Sparkman
Brooke	Hansen	Spong
Buckley	Hruska	Stennis
Byrd, Va.	Humphrey	Stevens
Cannon	Jackson	Stevenson
Case	Javits	Taft
Chiles	Jordan, N.C.	Thurmond
Cook	Jordan, Idaho	Tower
Cooper	Mathias	Tunney
Curtis	McGee	Weicker

NOT VOTING—7

Church	McGovern	Saxbe
Cotton	Mundt	
Hartke	Muskie	

So the committee amendment on page 48, line 24, was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 731

Mr. DOMINICK. Mr. President, I call up my amendment No. 731.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 23, line 26, and page 24, line 1, strike out "$2,281,319,000" and insert in lieu thereof "$2,299,619,000".

On page 24, after the period in line 4, insert the following: "Of the $2,299,619,000 appropriated in the preceding sentence, not less than $33,689,000 shall be available for research and development in connection with the surface effect ship program."

The PRESIDING OFFICER. Does the Senator wish to have the amendments considered en bloc?

Mr. DOMINICK. Yes; it is in fact one amendment, but I ask unanimous consent that it be considered en bloc.

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

Mr. DOMINICK. Mr. President, I am perfectly willing to enter into a very short time agreement on this amendment, because I do not think it will require any length of time.

Mr. MANSFIELD. How much?

Mr. DOMINICK. Thirty minutes to a side.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time allocation of 30 minutes on the pending amendment, the time to be equally divided between the manager of the bill and the proponent of the amendment, the time not to begin until after the colloquy between the majority and minority leaders.

Mr. DOMINICK. I did not hear the Senator's last statement.

Mr. MANSFIELD. Half an hour, but it would not begin until after the colloquy between us about the program for the rest of today and tomorrow.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I rise, with the understanding that this time will not be taken out of any amendment, to inquire of the distinguished majority leader as to what is the schedule for the rest of the night, and then as to what will prevail before we depart for the festal board sometime tomorrow.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished minority leader, which I am sure is of interest to the Senate as a whole, it is hoped that we will be able to finish the pending business tonight. The cooperation and accommodation of all Senators and the mood of the Senate seem to indicate that that is a fairly good possibility.

I should like at this time, if the distinguished minority leader would yield, to ask the assistant majority leader to make a series of requests, if he would, about time limitations on other amendments.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. I thank the majority leader and the minority leader.

Mr. President, I ask unanimous consent that upon the disposition of the pending amendment by the Senator from Colorado (Mr. DOMINICK), the Chair recognize the distinguished Senator from Missouri (Mr. SYMINGTON) to call up an amendment dealing with national intelligence, the time on that amendment to be limited to 90 minutes, to be equally divided between the distinguished mover of the amendment and the distinguished manager of the bill; that upon the disposition of that amendment, the amendment by the Senator from New Hampshire (Mr. MCINTYRE), No. 749, be called up, the time on that amendment to be limited to 30 minutes, to be equally divided between the distinguished mover of the amendment and the distinguished manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. SCOTT. Mr. President, reserving the right to object, would the distinguished assistant majority leader cover the matter of amendments to amendments?

Mr. BYRD of West Virginia. I was going to do that.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. BYRD of West Virginia. I have not completed it.

Mr. GOLDWATER. Mr. President, reserving the right to object—and I will not object—could the leadership tell us whether or not we can expect the yeas and nays on final passage?

Mr. MANSFIELD. I think we should, on a bill of this nature. It is a few billion dollars.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of the amendment by the Senator from New Hampshire (Mr. MCINTYRE), the amendment by the Senator from Alaska (Mr. GRAVEL), No. 747, be called up, the time on that amendment to be limited to 30 minutes, to be equally divided between the mover of the amendment and the manager of the bill.

Provided further, that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions to any of the aforementioned amendments, be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. MAGNUSON. Mr. President, reserving the right to object, I did not hear the Senator from West Virginia mention the proposed amendment by the Senator from Nevada. Do we intend to bring that up now?

How much time is there now on all the requests?

Mr. MANSFIELD. It will speed up. We are wasting time now if we do not get an agreement.

Mr. BYRD of West Virginia. The distinguished Senator from Nevada has not indicated to me as yet how much time he wants.

Mr. CANNON. I am not prepared to indicate at this time. I do not know. As I have indicated earlier, I am going to raise a point of order that I think is good. If the opponents of that position intend to go to a vote on the issue, then I am not going to agree to a time limit, because I want to educate the Senate on the issues involved first.

Mr. SYMINGTON. Mr. President, reserving the right to object, do I correctly understand that my amendment will be called up after the amendment of Senator DOMINICK?

Mr. MANSFIELD. Yes.

Mr. SYMINGTON. How much time am I allowed?

Mr. MANSFIELD. Ninety minutes, 45 minutes to a side.

Mr. CASE. Mr. President, reserving the right to object, how many more amendments are there?

Mr. MANSFIELD. We have five, on the basis that we understand; and the purpose is to try to finish tonight and adjourn early tomorrow.

Mr. CASE. I understand. But I asked how many there are beyond those mentioned already.

Mr. MANSFIELD. I do not know, except for the one by the Senator from Nevada.

Mr. CANNON. I really do not know. If my point of order is sustained, that will end it. If the Senate overrides it, then I will have some amendments to offer. So I cannot tell at this point.

Mr. CASE. I just suggest that it would make good sense, if we are going to be here until 11 o'clock again, a second night, we might carry it over until tomorrow and finish in a reasonable way.

Mr. MANSFIELD. I do not intend to stay until 11 o'clock tonight.

Mr. CASE. I think there is such a thing as carrying it too fast.

Mr. MANSFIELD. There is such a thing as carrying it too far and too fast.

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

Mr. MANSFIELD. Mr. President, following that, if this bill is finished tonight, we will turn to the consideration tomorrow of H.R. 9961, an act to provide Federal credit unions with 2 additional years to meet the requirements for insurance, on which there is a time limitation, which should not take too long.

Then, hopefully, we can bring up the matter of the education bill, in which the distinguished Senator from Rhode Island (Mr. PELL), the distinguished Senator from Alabama, and others are interested.

If something can be worked out about the hold by the Senator from Alaska (Mr. STEVENS) on H.R. 9727 and by Senator MATHIAS relative to S. 1857, we might take up those, also.

Then it is intended—it might be possible; we will have to see—to bring up the post card voter registration bill.

Mr. SCOTT. I thank the distinguished majority leader. I should like to say that I will have a goose in the oven tomorrow, and I should know whether it will be time to go home and turn the oven on during the afternoon. Does the Senator think I might have that time?

Mr. MANSFIELD. It looks reasonably good.

Mr. SCOTT. I thank the Senator. I recall that the cackling of geese saved Rome. They certainly have not saved the Union recently.

Mr. TOWER. When does the majority leader anticipate laying before the Senate the extension of the Economic Stabilization Act?

Mr. MANSFIELD. Tomorrow night, to make it the pending business when we return.

Mr. President, I ask for the yeas and nays on the amendments on which it has been agreed to vote on Monday next. I ask unanimous consent that it be in order to ask for the yeas and nays at this time on the three treaties.

Mr. GOLDWATER. Mr. President, what three amendments?

Mr. MANSFIELD. Three treaties. I beg the Senator's pardon. One treaty has to do with the Rio Grande border with Mexico, resolving the boundary differences, another is the tax convention with Japan, and the other is the tax protocol with France. They all were reported unanimously.

Mr. GOLDWATER. There is nothing about the treaty with Mexico?

Mr. MANSFIELD. That is right.

Mr. GOLDWATER. The Senator might be surprised.

Mr. MANSFIELD. The Senator knows the importance of maintaining the boundary.

Mr. GOLDWATER. I know the importance of maintaining our water, too.

Mr. MANSFIELD. Yes. But we lose nothing. They are routine treaties.

Mr. TOWER. It is all right.

The PRESIDING OFFICER. Does the Senator desire a separate vote on each treaty?

Mr. MANSFIELD. Yes.

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

Mr. SCOTT. I yield back whatever time I have used.

Mr. MANSFIELD. I thank the distinguished Senator.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

The Senate continued with the consideration of the bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. DOMINICK. Mr. President, if I may have the attention of Senators, I think we can be fairly short on this amendment.

I send to the desk a modification of my amendment and ask that it be considered as the amendment upon which we will act.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ELLENDER. Mr. President, will the modified amendment be stated?

The PRESIDING OFFICER. The Chair will state the modified amendment.

Mr. DOMINICK. I think I can explain it better, because all I did was change the figures.

The PRESIDING OFFICER. Without objection, the amendment, as modified, will be printed in the RECORD.

The amendment, as modified, is as follows:

On page 23, line 26, and page 24, line 1, strike out "$2,281,319,000" and insert in lieu thereof "$2,293,619,000".

On page 24, after the period in line 4, insert the following: "Of the $2,293,619,000 appropriated in the preceding sentence, not less than $27,689,000 shall be available for research and development in connection with the surface effect ship program."

Mr. DOMINICK. Mr. President, the purpose of my amendment is to restore funds to the Navy's R. & D. surface effect ship program. I am concerned lest what I believe to be a misunderstanding leads to an unfortunate setback in a development program which gives great promise for the advancement of our naval capability in the foreseeable future. The Senate bill before us would reduce the appropriation for the surface effect ship program by over $24 million. This is a reduction of over 60 percent from that authorized by the Armed Services Committee and requested by the Navy.

Mr. President, the Research and Development Subcommittee of the Armed Services Committee, of which I am a member, looked at this program very carefully. It was the subcommittee's recommendation that $39.6 million be authorized for fiscal 1972. This recommendation was approved by the full committee, was accepted by the Senate in approving the military procurement authorization bill and was further agreed to in conference. In my opinion, the SES program has undergone ample review and was fully justified.

The reduction of over $24 million, in effect, will preclude an orderly completion of the test effort about to commence for two small craft as well as any preliminary design effort for a follow-on oceangoing version.

I believe that there exists a misapprehension of the Navy's intentions for this program. The Navy has not planned to award the contracts for design, construction, and test of a large, 2,200 ton class, SES in fiscal year 1972. That effort is contemplated as a prototype program in fiscal year 1973. However, the fiscal year 1973 effort will be predicated upon data and experience evolved as a result of the closely related test and evaluation of two 100 ton units with preliminary design study of the 2,200 ton unit in fiscal year 1972. If we cut $24.2 million from this program we will have canceled any preliminary design studies and will have destroyed the parallel development concept of the program.

The Navy plans to provide the data from its ongoing tests of the smaller craft to three or four contractors who will undertake preliminary design studies in fiscal year 1972 for a larger ship of about 2,200 tons. A displacement of 2,200 tons is the smallest which will permit sustained operation in the open sea. Obviously, test and evaluation in the open sea is an essential element of the development effort.

Mr. President, I would like to point out that the interlacing of the design effort for the larger craft with the test and evaluation of the smaller craft is fully consistent with the prototyping concept recently adopted by the Department of Defense and approved by the Congress. In essence, the Navy will be utilizing actual test experience for prototype development instead of theoretical calculations. Further, the interaction of the 100-ton test program with the large model preliminary design studies will reduce the unknowns in the follow-on large 2,200-ton prototype effort. I do not believe we can find a procedure more consistent with the desire of the Congress to substitute hardware experience for paper studies.

Mr. President, it seems to me that maritime technology has been in a static state. Very few important advances have been made in recent years. However, in

the surface effect ship we have a potential technological breakthrough which is unequalled since the transition from sail to steam propulsion. By having ships of virtually unlimited displacement that can achieve 80-knot-plus sustained speeds, the surface effect ship could change traditional functions, roles, and missions at sea in ways that cannot now be foreseen. One area of vital concern to our Nation is the possibility the surface effect ship offers of reduced vulnerability to submarine attack and the attendant increased potential for antisubmarine warfare. And, certainly, until we have operational versions in use, we will not be able to employ it effectively or explore its full potential.

Mr. President, I am unable to find anything objectionable to the concurrency of this program. The program is deliberate in its processes, while also losing no time in this vital development. The reduced level of funding in the bill we are now considering would, however, cost at least one year's delay and more than $15 million in pursuing the prototype program.

Therefore, Mr. President, for the reasons I have discussed, I believe it very essential that a significant amount of the funds deleted from this program be restored. My modified amendment would restore $12.3 million which is the minimum needed to pursue the Navy's surface effect ship prototype program. Of the restored money, $9.75 million will be used to continue improvements in the technology, $1.5 million will be used to prepare a Navy test site at Patuxent River, and $1.05 million will permit further study of support requirements and design criteria.

Mr. President, I ask unanimous consent that a breakout of how the restored $12.3 million will be used be printed in the RECORD at this point. I also ask unanimous consent that an extract from Jane's Fighting Ships 1970–71 be printed in the RECORD at this point. It will be evident from the figures in this extract what speeds the Soviet subs are capable of attaining and it becomes clear why we must pursue the technology of a ship that can go 80 to 100 knots.

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

TECHNOLOGY

[Dollars in millions]

AERO-HYDRO

Activity and budget:

Hybrid Sidewall Seals, (NSRDC) $.700.
Resistance & Appendages, (Lockheed) $.300.
Turning & Maneuvering, (Contr.) $.350.
Stability Limit-Testing, (NSRDC) $.200.

PROPULSION

Lift System, (Contr./NSRDC) $.250.
Water Inlets, (Hydronautic) $.350.
Water Propulsors, (Contr.) $1.575.
Air Fans, (Contr.) $.225.
Transmissions & Gearing, (Curtiss) $.300.
Advanced Concepts, (Contr.) $.200.

STRUCTURES

Cavitation Damage, Matls., (Contr.) $.400.
Structural Criteria Model, (NSRDC) $.200.
Loads Research, (NSRDC) $.425.
Matls. Development, (Goodyear) $.375.
Compliant Structures, (Bell) $.200.
Full Scale Module Tests, (NSRDC) $.300.
Test Fixtures & Equipment, (Contr.) $.700.

RELATED TECHNOLOGY

Sensor-Weapon-Ship Compatibility, (APL/JHU) $.275.
Collision Avoidance, (Sperry) $.300.
Auxiliary Equipment, (Contr.) $.150.
SES Navigation, C&C, (Contr.) $.275.
Design Guidance Manuals, (Contr.) $.450.

MANNED MODEL CRAFT

Propulsion/Habitability, (ROHR) $.400.
Drag & Seals, (NPGS) $.200.
Modifications & Overhaul, (ROHR) $.650.
Total budget, $9.750.

SURFACE EFFECT SHIP, FISCAL YEAR 1972

FUNDING

[Dollars in millions]

TEST SITE PREPARATIONS

Test Site Engineering (Contr./NAVAIR) $6.
Training & Operation (NATC, PAX-RIVER) $5.
Seal Test Equipment (Contr.) $4.
Total $1.5.

REQUIREMENTS AND DESIGN CRITERIA

Mission Configuration (Contr.) $35.
Weapon System Integration (Contr.) $25.
Support Requirements (Contr.) $45.
Total $1.05.

NUCLEAR POWERED SUBMARINES

BALLISTIC MISSILE TYPES

10 "Y" class

Displacement tons, 8,000 surface, 9,000 submerged.
Length feet (metres), 426.5 (130.0).
Beam feet (metres), 34.8 (10.6).
Draught feet (metres), 32.8 (10.6).
Missiles, 16 "Sawfly" launching tubes.
Torpedo tubes, 8—21 in.
Main engines, Nuclear reactors; steam turbines.

The first units of this class were reported in 1969. The vertical launching tubes are arranged in two rows of eight and the missiles have a range of 1,500 nautical miles.

10 "H II" class

Displacement tons, 3,700 surface; 4,100 submerged.
Length feet (metres), 344.5 (105.0).
Beam feet (metres), 33 (10.05).
Draught feet (metres), 25 (7.6).
Missiles, 3 launching tubes.
Torpedo tubes, 6—21 in (bow).
Main engines, Nuclear reactors, steam turbines; 15,000 shp.
Speed knots, 25.
Complement, 90.

Long range submarines with three vertical ballistic missile tubes in the large "sail", or conning tower. The earlier vessels of the "H 1" class had missiles with a range of 320 nautical miles, but later units known as the "H II" class have ballistic missiles with a range of 600 miles.

CRUISE MISSILE TYPES

5 "C" class

Displacement, tons, 4,000 surface; 5,000 submerged.
Length feet (*metres*), 385.9 (*117.0*).
Beam feet (*metres*), 32.8 (*10.0*).
Draught feet (*metres*), 24.6 (*7.5*).
Missiles, 8 "Shaddock" launching tubes.
Torpedo tubes, 6—21 in.
Main engines, Nuclear reactors; steam turbines.
Speed knots, 30 approx, submerged.
Complement, 100.

Streamlined submarines designed for high speed. First reported extant in 1969. Developed from the "E" class. Large bulbous bow. Short range missile system of eight topside tubes, four to port and four to starboard. (A new type of submarine officially announced in 1968 has a prominent steel bulge around the conning tower).

25 "E II" class

Displacement, tons, 5,000 surface; 5,600 submerged.
Length, feet (*metres*), 393.7 (*120.0*).
Beam, feet (*metres*), 33 (*10.05*).
Draught, feet (*metres*), 27 (*8.3*).
Missiles, 8 "Shaddock" launching tubes.
Torpedo tubes, 6—21 in (bow).
Main engines, Nuclear reactors, steam turbines.
Speed, knots, 22 max; 14 crusing.
Complement, 100.

The design of the "E II" sub-group was a development of most of the "E I" sub-group lengthened to accommodate—more missile launchers, arranged four on each side.

5 "E I" class

Displacement tons, 4,600 surface; 5,000 submerged.
Length feet (*metres*), 383.9 (*117.0*).
Beam feet (*metres*), 33 (*10.05*).
Draught feet (*metres*), 27 (*8.3*).
Missiles, 6 "Shaddock" launching tubes.
Torpedo tubes, 6—21 in (bow).
Main engines, Nuclear reactors, steam turbines.
Speed knots, 20 max.; 12 cruising.
Complement, 92 (12 officers, 80 men).

Long-range submarines, with six cruise missiles in launching tubes elevated from the flush deck and arranged two abreast. Cruise missiles have a range of — nautical miles. "E" class submarines in the Pacific are based at Komsomolsk.

Mr. DOMINICK. I have talked this over with the Senator from New Hampshire (Mr. MCINTYRE) and it is my understanding that he will be agreeable to this amendment. I yield to him now to make such comments as he may care to make.

Mr. MCINTYRE. I thank the Senator for yielding to me. I agree with the Senator from Colorado and I fully support the need for developing a ship with this capability. The promise is great for a surface effect ship program. I do not believe that the Navy should go beyond the 100-ton test vehicle for fiscal 1972, but this is a very promising program. Admiral Zumwalt is interested in it. Originally, I think that we funded the whole program of some $34 million, but since the House Committee on Appropriations and the Senate Committee on Appropriations have seen fit to cut it back, we should make clear, as the Senator from Colorado will indicate, if he has not done so already, that the manner in which it has been cut back will seriously jeopardize the ongoing part of the program. As long as the Senator from Colorado has modified his amendment, I certainly will go along with it.

Mr. DOMINICK. I thank the Senator from New Hampshire. This is an important program. I know how hard the Senator has worked on it reviewing each one of the programs item by item.

Now, Mr. President, I yield 3 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the distinguished senior Senator from Colorado has proposed an amendment to the fiscal year 1972 military appropriations bill. His action has been ably supported by several of my colleagues. I would offer my comments only to register yet another vote in support of their efforts.

I too am concerned that the reductions in the funding sought for test, evaluation, and technical support of the two 100-ton models of the surface effect ship in

fiscal year 1972 would unnecessarily delay the appearance of an ocean-going model of this exciting concept in advanced marine propulsion. Since the 2,200-ton displacement is the lower limit which would permit a deep-ocean military capability, it will not be until the appearance of that model that the full potential of the concept can be assessed.

We are speaking of the fiscal year 1974–77 time frame in regard to the test and evaluation of the 2,200-ton model. I believe this is important to understand when we consider the possibility of further delay in test and evaluation of the 100-ton models. For instance, it is not contemplated that test and evaluation of the 2,200-ton model could begin until sometime in 1976. Weapon and sensor testing must come even later.

Mr. President, I do not believe that the milestone schedule which I have outlined represents a hasty development. It is not contemplated that the contract for the detailed design will be let for approximately another year. The Navy and the Congress will be afforded ample opportunity to evaluate the progress of the development as it unfolds. Certainly, the schedule affords decision points where the course of the development can be altered or terminated if need be.

I do not believe that we have reached one of those decision points at this time. In fact, it is my opinion that we will unnecessarily retard the development by limiting its funds as now proposed in the appropriations bill before us. No substantial reason has been offered to support such limiting action. Until we are provided substantial cause for limiting or discontinuing the funding, I propose that this body support the development as it has been planned by accepting the amendment offered by my colleague from Colorado.

Mr. DOMINICK. I thank the Senator from Arizona. I know that he and the Senator from New Hampshire (Mr. McINTYRE) have probably been the two most active Senators working on the Research and Development Subcommittee. It is awfully good to get their support.

Now, Mr. President, I yield 3 minutes to the Senator from Vermont (Mr. STAFFORD).

Mr. STAFFORD. Mr. President, I strongly support the amendment offered by the junior Senator from Colorado which would provide needed funds for the expeditions development by the United States of the surface-effects ship.

Whether a technological breakthrough is proceeding at too fast or too slow a pace is a matter of subjective judgment, performed in a gray area of facts and data, only partially developed and only hazily perceived by most onlookers. Those best qualified to make such judgments are the scientists, the builders, and the entrepreneurs, who possess the vision and the personal knowledge which have as their origins the conceiving and doing of a project.

I am concerned that we may be caught up in a tide of introspection and self-criticism, of doubt, and of excessive caution on a national scale. If such is the case, we are in imminent danger of stifling the national initiative and thereby throttling one of America's greatest qualities of the past—innovation.

Certainly, few, if any, of us in this room have either the familiarity with the technology concept of the surface-effects ship, or the knowledge of the facts associated with its development to date, to make a flat determination as to whether the project is proceeding too fast or too slow. Yet, we would make such a determination and demand that we be shown, step by step, the justification for proceeding further. This sort of supervision might be justifiable if the Congress were on the spot to confer daily with the doers of the work. But we cannot do this. At best, we are able to devote only a little time annually to hearing and assimilating the facts as we understand them. We are woefully behind, and have been so for several years in enacting even basic funding legislation. How then do we propose to exercise detailed supervision, while avoiding the stultification of progress and the sapping of managerial energy in this and like development?

Do not misunderstand me, Mr. President. I do not advocate the turning over of national resources to individuals without checks and balances. Our military planners are subject to error and miscalculation, as we in this room are subject. But I am not convinced that the qualifications and past record of our military establishment are such as to warrant the distrust ascribed to it today. In my estimation, some of the results for which the military are regarded with the greatest criticism were governed by circumstances largely beyond their control. I have observed with growing dismay the almost continuous stream of doubt and criticism which has been directed at our major military procurements. Some of this was wholly justified. In other instances, project managers have been held responsible for the influences on their projects of national economic ills. And, in still other instances, the criticism has borne all the hallmarks of sideline heckling by persons who offered nothing constructive alternatively.

A great deal of this doubt and criticism has its genesis in the discontent with military matters which has grown to disquieting proportions in the past several years. Few of my colleagues will not agree that our judgments are colored to some degree by the many evidences of this discontent. But we of the legislative branch have a transcendant responsibility to look beyond the tremors and emotions of the present and to seek what is best for this country in the years to follow. I submit that overly centralized control of projects such as the surface effects ship will not provide what is best.

These are my reasons, Mr. President, for supporting the amendment offered by the distinguished senior Senator from Colorado. The development of the 100-ton models of the surface effects ship should be allowed to proceed as planned until we have better evidence that either the development itself or its rate of progress is not in the national interest.

Mr. President, I urge the adoption of the amendment offered by the Senator from Colorado.

Mr. DOMINICK. I thank the Senator from Vermont very much for his comments.

Now, Mr. President, I yield briefly to the Senator from Washington (Mr. MAGNUSON).

Mr. MAGNUSON. Mr. President, I hope that the Senate will adopt this amendment, for this reason: I happen to be personally familiar with the technology involved in these ships. They are not only technologically feasible but they are the most sorely needed ship we need for the whole of our Navy to complement what the Russians are doing in the Mediterranean and other places. This will not be a shot in the dark.

When we talk about an 80-knot Navy, we are telling the truth. With these ships, they are so sophisticated that the Navy will have to use airplane pilots to run them rather than regular ship pilots. No submarine will be able to get near them. I therefore hope that we can go ahead with this program because I happen to know of two things, one being that one of them has already been tested. I guess that two of them are on their way. This is a very important part of our new technology in the Navy. As far as I know, all the naval officers and naval technicians are very high on this phase of our development.

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

Mr. DOMINICK. Mr. President, the Senator is perfectly correct. In looking over the money provided, I was entertained to see not only navigation for pilots but also training, so that they will know what they are doing when they go that fast.

Mr. President, I yield 1 minute to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 1 minute.

Mr. MATHIAS. Mr. President, I rise to support the amendment. It is an important amendment. I associate myself with the remarks of the Senator from Arizona who makes the point that research is the key to the future. I agree. I think it is the key to a more economic approach and a more effective defense.

That is the purpose which the amendment proposes to effectuate. I hope it will be agreed to.

Mr. DOMINICK. Mr. President, I thank my good friend, the Senator from Maryland. I appreciate his comments.

Mr. President, I yield 1 minute to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute.

Mr. CASE. Mr. President, I will not take the minute. I commend the Senator for his initiative and continued interest in this approach. It is a pleasure to find myself associated with the Senator in tandem rather than in opposition. It makes me feel very good.

Mr. DOMINICK. I must say that I am delighted. And I can think of no nicer ally than my friend, the Senator from New Jersey.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 1 minute remaining.

Mr. DOMINICK. Mr. President, I yield 1 minute to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 1 minute.

Mr. THURMOND. Mr. President, the amendment offered by the distinguished Senator from Colorado (Mr. DOMINICK) deserves the support of the Senate.

Restoration of the funds as proposed in this amendment would permit an orderly completion of the test effort for two small but important Navy ships and would allow a preliminary design effort for a follow-on oceangoing vessel.

In this program we have an example of the prototyping concept that so many of the Defense Department critics favor. The Navy is simply trying to test and evaluate these smaller ships and utilize the results in the design of a larger ship. This is a sensible program.

The Senate should also realize that the surface effect ship program is on the threshhold of a new technology in naval warfare. The idea is to have ships with such limited displacement that they can achieve high speeds. This would provide a ship which would be virtually invulnerable to submarine attack while at the same time it would be highly effective in antisubmarine warfare.

The Navy is testing two small ships with two different types of propulsion systems in an effort to achieve speeds of 80 to 100 knots.

Obviously these ships will be traveling on top of the water, not through the water.

The idea is to go with the system which tests out as the better of the two. The winning system would be applied to a larger ship approximately the size of our World War II destroyers.

Mr. President, for these reasons I urge the Senate to approve this amendment so that the Navy may continue an orderly development of this vital program.

Mr. ELLENDER. Mr. President, the committee gave a good deal of thought to the surface effect ships. Up to now we have spent $37.4 million to construct two 100-ton prototype ships.

Last year the House as well as the Senate eliminated all funds budgeted for the project. That was done because, when this program was first started, the Commerce Department took part in it and agreed to put up half the funds necessary for the research. Between one and 2 years after the work on the surface effect ship was started, The Commerce Department withdrew from the program. I understand that the Department withdrew because it was decided such a ship would not be practical for carrying freight and heavy material.

What the Senate did last year was to provide a sufficient sum of money to complete these two prototype ships so that they could be tested adequately.

Mr. President, in order to complete this research work, the House provided the budget estimate of $14.3 million that we are told will complete the two test models so that we can discover the potentials of this type of construction concept.

Admiral Zumwalt, Chief of Naval Operations, agreed last year with the committee that before any further funds were appropriated to carry on the development of the surface effect ship, those two prototypes should be completed, put into the water, and tried.

Mr. President, the $14.3 million in the bill will be spent this year to try out these 100-ton prototypes. That was what agreed too, and that is what the committee did. If we put the amount of money in that the Senator is asking to be placed in the bill, it will mean that we are starting the construction of a 2,000-ton ship before the smaller models are adequately tested. All of the work done will be in that direction. I believe that it would be a waste of money until we find out how the 100-ton prototype ship operates.

That is the picture. The committee carefully provided in the bill the $14.3 million so as to complete these two prototype ships. If these prove successful, then we can proceed to consider funds needed to develop a bigger ship.

Mr. President, we have spent up to now $37,400,000 on the two prototype ships, with $14,300,000 more to come. To allocate more, without trying this new concept out is a waste of money. Let us complete the two prototypes with the money we have available and run the necessary tests. The work will go on. The experiments will go on, and the money we have provided will not only be sufficient to complete the two prototype ships, but it will also provide funds to try them out.

Mr. McINTYRE. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I yield.

Mr. McINTYRE. I have to take issue with the distinguished Senator and his committee because the funds appropriated do not provide for important general technology to support the 100-ton ship program, and the preparation of the Navy Patuxent River site for the test program. A total of $12.3 million must be restored for these requirements or this program is set back about 1 year. This would delay the availability of this revolutionary new generation of ships.

Mr. ELLENDER. Before we spend any more money in the same direction we want to see whether the 100-ton ship works as hoped. If it does fulfill its promise, then it will be time to start on one that will displace 2,000 tons. That is the objective, and I am supporting it.

As it is now, the two models were to be tested in operation this year, but that schedule has not been met on that basis, I believe until we complete the trial of these ships to see whether or not they work, it would be the height of folly for us to go full steam ahead.

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

Mr. ELLENDER. There is no telling how much the 2,000 ton model will cost. Let us spend $14.3 million provided for in this bill and see if those 2 prototypes work. Next year it will be time enough for us to decide whether to go on with this program.

That is why the House provided the moneys that we now have in the bill for that purpose.

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

Mr. ELLENDER. I yield for a question.

Mr. DOMINICK. I think there must be some confusion on this matter. I really think there must be and I am not trying to be difficult about it because I know how hard the Senator works on these matters. I am not putting in for design; I am putting in $12.3 million for technology which is needed for the Patuxent Base and assistance, and design criteria as they go on working on these currently. It will provide for final technology on these ships and the test site at Patuxent and, while we are doing this we will see if the technology research could be applicable to a bigger ship.

If we want to try before we buy, we had better look at it. We have gone over this in detail. I could not find any place where we are doing other than what the Senator wants or what I want.

Mr. ELLENDER. The Senator will recall that the Pentagon, the Congress, and the taxpayers got into a great deal of spending a lot of money on the C–5 and the F–111 and other projects without testing them adequately, and before we knew what we were doing that is what I am trying to head off.

Mr. DOMINICK. I agree.

Mr. ELLENDER. These two test models will be completed and tests will be run this year. The committee felt that is what should be done and that is what I am advocating here—that we continue work on these prototypes. We will develop the needed technology as we proceed to work on the 100-ton ship.

What I am attempting to do is protect the American taxpayer by proceeding in an orderly and rational manner, step by step. I also desire to protect the Department of Defense, the Navy, and the Congress against having to face some of the expensive errors of judgment of the recent past.

Mr. PELL. Mr. President, I think it is important in acting on these multibillion dollar funding requests for military procurement that we keep an eye on the future. It is often said of generals, admirals, and politicians that they always are preparing to refight the last campaign.

But times change, and it would be both unwise and false economy to agree to spend billions of dollars on the conventional naval vessels today, while refusing to spend the relatively small amounts of money required to develop the naval vessels of tomorrow, ships that may provide more effective and economical defense of our country. And certainly, the surface effect ships hold promise of being an important breakthrough in naval vessel performance.

Accordingly, I support strongly the amendment offered by the junior Senator from Colorado (Mr. DOMINICK) to restore to this appropriation bill the funds requested by the Navy for the surface effect ship program.

Mr. DOMINICK. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. All time has expired.

Mr. DOMINICK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there

a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified of the Senator from Colorado.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New Hampshire (Mr. COTTON), the Senator from New York (Mr. JAVITS), and the Senator from Maine (Mrs. SMITH) are necessarily absent.

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

The Senator from Illinois (Mr. PERCY) is detained on official business.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) would each vote "nay."

The result was announced—yeas 59, nays 30, as follows:

[No. 393 Leg.]

YEAS—59

Aiken	Fannin	Nelson
Allen	Fong	Packwood
Allott	Gambrell	Pearson
Baker	Goldwater	Pell
Bayh	Griffin	Ribicoff
Bennett	Gurney	Schweiker
Bentsen	Hansen	Scott
Bible	Hollings	Sparkman
Boggs	Hruska	Spong
Brock	Hughes	Stafford
Brooke	Humphrey	Stevens
Buckley	Inouye	Stevenson
Case	Jackson	Taft
Cook	Jordan, Idaho	Talmadge
Cooper	Kennedy	Thurmond
Cranston	Magnuson	Tower
Curtis	Mathias	Tunney
Dole	McGee	Weicker
Dominick	McIntyre	Williams
Ervin	Miller	

NAYS—30

Anderson	Fulbright	Mondale
Bellmon	Gravel	Montoya
Burdick	Harris	Moss
Byrd, Va.	Hart	Pastore
Byrd, W. Va.	Hatfield	Proxmire
Cannon	Jordan, N.C.	Randolph
Chiles	Long	Roth
Eagleton	Mansfield	Stennis
Eastland	McClellan	Symington
Ellender	Metcalf	Young

NOT VOTING—11

Beall	Javits	Percy
Church	McGovern	Saxbe
Cotton	Mundt	Smith
Hartke	Muskie	

So Mr. DOMINICK's amendment, as modified, was agreed to.

Mr. DOMINICK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. GRAVEL). The Chair recognizes the Senator from Missouri.

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

Mr. SYMINGTON. I yield to the Senator from Montana.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session, to consider certain nominations at the desk.

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

U.S. COURTS

The assistant legislative clerk read the following nominations, which were favorably reported earlier today by the Committee on the Judiciary:

James S. Holden, of Vermont, to be a U.S. district judge for the district of Vermont.

Ralph F. Scalera, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania.

Clarence C. Newcomer, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania.

Charles M. Allen, of Kentucky, to be a U.S. district judge for the western district of Kentucky.

Alfred T. Goodwin, of Oregon, to be a U.S. circuit judge for the ninth circuit.

Levin H. Campbell, of Massachusetts, to be a U.S. district judge for the district of Massachusetts.

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

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

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

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

Mr. COOPER. Mr. President, I am very glad that the Senate has confirmed this evening Judge Charles M. Allen of Louisville, Ky., to be a U.S. district judge for the western district of Kentucky.

The nomination of Judge Allen by President Nixon has received wide approval in Kentucky. By reason of education, experience as a practicing lawyer and as an elected circuit court judge, a court of general jurisdiction in the Commonwealth of Kentucky, Judge Allen has superior qualifications. He is a man of fine and respected family background, of the highest integrity, and he is held in high regard by the bar, his colleagues of the judiciary and by the people of Louisville and Jefferson County.

I am sure that Judge Allen will fill his important office with great ability and honor.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislation business.

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

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

The Senate resumed the consideration of the bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

Mr. SYMINGTON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats, and attachés will leave the Chamber.

INTELLIGENCE—THE GREAT WASTE IN GOVERNMENT

Mr. SYMINGTON. Mr. President, a premise to these observations, and the amendment which I thereupon plan to offer to this military appropriation bill, is based on a belief that the Senate is as much interested in the question of the overall structure and functioning of our intelligence apparatus as is the House of Representatives.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk, so that it may be reported?

Mr. SYMINGTON. The amendment is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 49, between lines 2 and 3, insert the following:

SEC. 745. None of the funds appropriated in this Act in excess of $4,000,000,000 may be available for expenses by the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency, and for intelligence work performed by or on behalf of the Army, Navy, and the Air Force.

Mr. SYMINGTON. Mr. President, one notes that earlier this month, in its report to the House, the House Committee on Appropriations made the following observations; and inasmuch as those observations confirm both our own thinking and our findings over recent years, I will read them into the RECORD at this point:

The Committee feels that the intelligence operations of the Department of Defense have grown beyond the actual needs of the Department and are now receiving an inordinate share of the fiscal resources of the Department.

Redundancy is the watchword in many intelligence operations. The same information is sought and obtained by various means and by various organizations.

Coordination is less effective than it should be.

Far more material is collected than is essential.

Material is collected which cannot be evaluated in a reasonable length of time and is therefore wasted.

New intelligence means have become available and have been incorporated into the program without offsetting reductions in old procedures.

As noted in this House report, their conclusions were based on extensive hearings—let us note also that last year this House Committee held extensive hearings on intelligence activities in the Department of Defense, the bulk of

which proceedings were included in the public record.

During these hearings, the then Assistant Secretary of Defense, now Secretary of the Army, Secretary Froehlke, who had been directed by the Secretary of Defense to review the intelligence programs, also testified that he was surprised to find that there was no comprehensive inventory of DOD intelligence assets. He thereupon stated that he concurred with the committee's expressed concern about duplication in the intelligence community.

In addition, this report states that the committee expects to review the intelligence program in total during the hearings on the fiscal year 1973 budget request.

In reviewing the hearings and reports of interested Senate committee's, we can find no comparable interest on their part with respect to the billions appropriated annually for intelligence.

Back in 1966, as a member of both the CIA Subcommittee of the Senate Armed Services Committee and also the Senate Foreign Relations Committee, I became concerned that, because of their lack of knowledge of certain intelligence matters bearing on foreign policy, members of the Foreign Relations Committee were not in a position to make intelligent judgment of certain U.S. policies overseas. Accordingly, I presented this situation as I saw it to the then chairman of Armed Services, the late Senator Russell.

At the beginning of the 90th Congress, in January 1967, Chairman Russell invited three members of the Foreign Relations Committee to sit with the CIA Subcommittee of Armed Services, which committee also included members of the Senate Appropriations Committee. This arrangement presumably continues, but the members of the Foreign Relations Committee participate as a matter of grace, not of right. I say presumably because in any case said CIA Subcommittee has not met once this year, and from what I understand does not plan to meet.

During a markup last week of military appropriations by the Senate Defense Appropriations Subcommittee, no mention was made of the multibillion dollar appropriation requests contained in this bill for most of the some 15 intelligence operating or/and advisory groups in the executive branch of this Government.

As an ex officio member of Appropriations because of being the ranking member of the Armed Services Committee, after the subcommittee meeting I called the staff of Appropriations to ask in general about the intelligence appropriations; but I was told that, except for the five senior members of the Senate Appropriations Committee, they had been instructed not to talk about these multibillion dollar intelligence appropriations, even to the other members of the Appropriations Committee.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

That is such a shocking statement that I thought some attention should be called to it.

Mr. SYMINGTON. I am glad to yield to the able Senator.

Mr. FULBRIGHT. The statement the Senator just made, that he, as a Senator, was told by a staff member—who obviously does know about it—that he could not tell the Senator even the amount or anything else about this, seems to me a shocking and unprecedented situation. I have never heard of this before, except from the executive branch. I have never heard of a member of a Senate staff telling a Senator that he could not tell him what he knew about the relevant business of any committee.

Mr. SYMINGTON. I thank the Senator for his contribution.

Mr. FULBRIGHT. Does the Senator know of any precedent for this?

Mr. SYMINGTON. I do not.

Mr. FULBRIGHT. Did the Senator ever have this experience before?

Mr. SYMINGTON. No; I did not.

Mr. FULBRIGHT. That is what I mean. This is the only time I have ever heard of it.

Mr. SYMINGTON. This means that these billions of dollars of the taxpayers' money are being authorized and appropriated by the Senate with the knowledge and approval of just five of its Members.

As a result of their 3-year investigation—1969–71—of our worldwide treaties and commitment, both staff teams of the Senate Subcommittee on U.S. Security Agreements and Commitments Abroad of the Foreign Relations Committee found heavy duplication—therefore, waste—of the taxpayers' money, in the intelligence field; and, perhaps even more important, they found many conditions which were not known by those on the Senate committees designated to review our military and political policies and position with other countries.

The cover story in a recent issue of Newsweek magazine confirms this confusion and waste, and details general dissatisfaction with much of it. The article states that President Nixon's "major complaints are faulty intelligence, runaway budgets, and a disparity between a glut of facts and a poverty of analysis."

Mr. President, several times today on the floor, people have justified their position on the grounds the President felt this way, or felt that way. Now let me repeat how the President feels about this matter, according to this article:

President Nixon's "major complaints are faulty intelligence, runaway budgets and a disparity between a glut of facts and a poverty of analysis."

This article also asserts:

Bureaucracy has transformed what began as an amateurish happy few into a sprawling intelligence conglomerate encompassing more than a dozen government agencies, 200,000 employees and a budget of some $6 billion a year.

As one Member of the Senate, despite my committee assignments, I do not know whether those figures are accurate or inaccurate, too large or too small.

Earlier this month, the news media began calling me one evening about a major reorganization in the intelligence field that had just been announced by this Government. I told them the truth—that I knew nothing about it.

The press carried a story about this reorganization the next morning. I thereupon called the CIA to find out about it and later that day—Saturday—a member of that organization delivered the White House press release to my home, stating that the press release was all the Agency knew about it at the time.

It is clear to anyone familiar with the executive branch that this reorganization: First, could be turning over the intelligence operation to the military—exactly what the National Defense Act of 1947 took careful steps to prevent—and second, places policy control of intelligence in a new committee in the White House, headed by the Assistant to the President for National Security Affairs, Mr. Kissinger, on this committee sit both the Attorney General and the Chairman of the Joint Chiefs of Staff, as well as the Deputy Secretaries of State and Defense.

This gives Executive privilege to the final policymakers, and therefore, except for the power of the purse, enables said policymakers to, in effect, take the entire question of intelligence out of the hands of Congress.

The fact that I do not think such a development is right or proper, Mr. President, is the basic thrust of the amendment that I am offering this evening.

I thereupon made a short talk on the floor of the Senate delineating this extraordinary development, and protesting that such a major change incident to our overall security should not be made without the knowledge let alone the approval, of anybody in the Senate; and I ask unanimous consent that this talk be inserted at the end of these remarks.

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

(See exhibit 1.)

Mr. SYMINGTON. The Chairman of the newly formed White House Intelligence Committee, Dr. Kissinger, thereupon called me and said I was right, that the change should have been discussed with the proper committees of Congress, that the reorganization details had been handled by Mr. George Shultz, and that he, Kissinger, would arrange for Mr. Shultz to come down and talk to me about it.

I thanked him for his call, but said I felt any such a briefing should be given to the committees, not to an individual Member. That is the last I have heard of it.

In a recent article in the U.S. News & World Report, written by the former Executive Assistant to the Deputy Director of the CIA, a very serious charge was made—namely, that the present setup gives "the military considerable power to shape intelligence estimates." The article went on:

Whenever you're working on a problem that the military is deeply interested in—because it's affecting one of their programs, or their war in Vietnam, or something—and you're not saying what they want you to say, the browbeating starts: the delaying tactics, the pressure to get the report to read more like they want it to read, in other words, influencing intelligence for the benefit of their own operation or activity.

A former member of the CIA establishment, in a reply to these statements pub-

lished in the same issue of that magazine, stated:

In both the Senate and the House there are subcommittees of both Appropriations and Armed Services. In the Senate, members of the Foreign Relations Committee are invited to join briefings of the other subcommittees.

And then states:

I submit that there is no federal agency of our government whose activities receive closer scrutiny and "control" than the CIA.

Based on the facts presented above, the reverse of that statement is true in my opinion, and it is shameful for the American people to be so misled. There is no Federal agency of our Government whose activities receive less scrutiny and control than the CIA; and the same is true of other intelligence agencies of the Government who reportedly receive billions of dollars more each year than does the CIA.

I have the greatest respect for the five members of the Senate Appropriations Committee who alone of all Senators know the details of this multibillion-dollar authorization and appropriation. But I do not believe that they, and they alone, should render final decision on both said authorizations and appropriations without the knowledge, let alone the approval, of any other Senators, including those on the Armed Services Committee who are not on this five-member Subcommittee of Appropriations, and all members of the Senate Foreign Relations Committee.

The latter committees have fully as much interest in our military and political activities in foreign lands as do members of this Appropriations Subcommittee; in fact, the heads of the CIA in foreign countries operate under the supervision of the Ambassador; and those Ambassadors report to the Secretary of State.

As a matter of fact, and as anybody knows who has traveled around in these foreign countries where we are at war or in what might be called partial peace, the heads of the CIA in these countries operate under the direct supervision of the Ambassador, and those Ambassadors report to the Secretary of State.

Today we all know this Nation faces serious fiscal and monetary problems. Our economy is in grave trouble and one of the chief reasons for this condition has to do with our vast military expenditures at home and abroad.

With that premise, apprehension about this situation can only be increased by the fact the reorganization announced earlier this month by the White House in turn increases the influence of the military in the formulation of intelligence estimates. I was a Secretary in the Defense Department when the National Security Act of 1947 was passed—in fact I monitored the passage of that bill for Secretary Patterson—and therefore know this is exactly what President Truman and his advisers, for the obvious reasons, attempted to avoid.

The wording of the law itself makes the point. I ask unanimous consent that this wording be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. SYMINGTON. Mr. President, if this analysis is correct, many billions of additional and often unnecessary dollars will be added to the defense budget, because that budget is based on intelligence estimates of the plans, programs, and production of the possible enemy; and invariably the estimates of the military have been higher than those of the civilians.

Knowledge—intelligence—about the plans and programs of the possible enemy is generally considered to be at least as important as any other factor in the formulation of the defense budget.

As but one example of that importance, there follows a colloquy between the distinguished present chairman of the Senate Appropriations Committee and former Secretary of Defense McNamara, during the defense appropriations hearings of 1967:

Senator ELLENDER. What part does the State Department take in making decisions that have resulted in the programs you are presenting to us now?

Secretary MCNAMARA. That State Department is informed of, but does not affect my recommendations as to what ought to be done.

Senator ELLENDER. Are your recommendations founded solely on what you get from the JCS?

Secretary MCNAMARA. No, sir; they are not. The JCS are, of course, the principal military advisers to the President by law, and of much more importance they are actually his military advisers because of their experience. But the national intelligence estimates are taken into account in my recommendations as well as other information.

Again, in that this year the CIA Subcommittee of the Armed Services Committee has not met once, it would appear there is now even more secrecy in the handling of intelligence funds; and this at a time when there is a steadily rising chorus among the people of this country for less secrecy.

Apparently some people believe that the very word "intelligence," in itself, requires that all these billions should only be authorized and appropriated in such great secrecy.

To me, this does not wash. We authorize and appropriate, through the proper congressional committees, tens of billions of dollars annually for the other component parts of the military.

There is nothing secret, for example, about the constantly referred to cost of a nuclear aircraft carrier, or the cost of the C–5A, or the cost of the main battle tank; but knowledge of these costs does not mean that either the Congress or the American public have been informed, in case of a war, how, along with our military personnel, it is planned to utilize these weapons. That would be getting into war plans, something which should be studiously avoided.

By the same token, knowledge of the overall cost of intelligence does not in any way entail the release of knowledge about how the various intelligence groups function, or plan to function.

Why should there be greater danger to national security in making public overall intelligence costs than in making public other overall security costs?

I am certain in my own mind that we would not have engaged in at least one war—killing people and having our own killed—if pressures, combined with unwarranted secrecy, had not been characteristic of our intelligence knowledge and activities in that country; because our political and military actions were approved by the Congress on the basis of misinformation and a lack of information.

In summary, therefore, I do not believe the Senate can meet its responsibilities, or exercise its "constitutional prerogative" if this bill is approved under these circumstances; therefore, I offer this amendment which has been read at the desk and which provides that the Senate impose a ceiling on the amount of funds in this bill that can be expended for intelligence activities during the fiscal year in question.

Responsible news media continue to assert to the American people that the cost of intelligence to the American taxpayer now runs to between $5 billion and $6 billion. I do not believe that figure is necessarily correct, but if it is correct, it but confirms the many informed reports we have had about duplication and waste.

I now ask for the yeas and nays.

The yeas and nays were ordered.

EXHIBIT 1

CONGRESSIONAL OVERSIGHT OF INTELLIGENCE ACTIVITIES

(Statement by Senator Stuart Symington)

Last Friday the White House announced that the President had ordered a reorganization of the intelligence community. I ask unanimous consent that their press release to this end be placed in the Record at the conclusion of these remarks.

As reported by the press, the Administration's plan creates an "enhanced leadership role" for the Director of the Central Intelligence Agency, turns more of the operating responsibility for that Agency over to the Deputy Director, and creates or reconstitutes a variety of boards, committees and groups who are charged with important responsibilities within the intelligence community.

The reported aim of the reorganization is to improve the "efficiency and effectiveness" of United States intelligence activities; and press comments on this move include references to alleged concern over the size and cost of intelligence operations; also to general unhappiness about various specific intelligence estimates. Such reports have been officially denied, but it is acknowledged that this reorganization is the result of "an exhaustive study" of the United States intelligence activities.

It could be that the reorganization announced last week by the White House is a constructive move. In recent years there has been a growing belief that there was heavy duplication and therefore waste within the overall intelligence community. Unfortunately, however, it has been impossible for the public, or even concerned members of Congress, to obtain enough information on this subject for informed judgment.

By the same token, it is equally impossible to determine, at least at this time, whether the organization changes now decreed will accomplish their stated purposes, or to determine what will be their practical effect.

One thing is clear, based on the manner in which the reorganization was handled and announced; namely, the Executive Branch does not consider either the orga-

nization, or the operation, of the intelligence community to be matters of concern to the Congress. To my knowledge there was no advance consultation whatever with the Congress regarding this reorganization, or even any advance notice of what had been decided.

In 1947 the Central Intelligence Agency was established by act of Congress. Its powers and duties are specified by law. Its Director and Deputy Director are subject to confirmation by the Senate.

Last year the Congress appropriated an amount estimated by the press to be between five and six billion dollars for the activities of this agency and the other component parts of the intelligence community.

As one member of the Senate, I will not accept the proposition that the Congress' role in organizing the intelligence community ended twenty-four years ago with the passage of the National Security Act, or that our only current and continuing responsibility is to appropriate whatever number of billions of dollars the Executive Branch requests so as to handle this work.

Last Saturday, when I learned from the press about this intelligence reorganization, as ranking member of the Senate Armed Services Committee I wrote the Chairman of that Committee, requesting hearings either by the full Committee or by the CIA Subcommittee, of which I have been a member for some fifteen years. In that letter I presented the fact that this Subcommittee has not met once this year.

This latest reorganization on the face of it raises questions about past, present and future performance of our multi-billion dollar annually intelligence community; questions such as

If it has been inefficient, what and where were its deficiencies?

In what sense does it need to be more "responsive?"

What is implied about the past by the reference in the press release to the objective of insuring "strengthened leadership" in the future?

The White House announcement offers neither answers to these questions, nor explanations of the remedies which have now been unilaterally decreed.

In order to understand properly said action by the Executive Branch, Congress should know the answers to such questions as the following:

How is the leadership role of the Director of the Central Intelligence Agency "enhanced" by the creation of a new and obviously more powerful supervisory committee chaired by the Advisor to the President for National Security Affairs, on which new Board not only sits the Attorney General but also the Chairman of the Joint Chiefs of Staff?

Has this new White House committee been given authority or/and responsibility which heretofore was the responsibility of the CIA; and which the Congress, under the National Security Act, vested in the Agency?

How can the integrity of the intelligence product be assured when responsibility for the most critical aspects of intelligence analysis is taken out of the hands of career professionals and vested in a combination of military professionals and the White House staff?

EXHIBIT 2

CENTRAL INTELLIGENCE AGENCY

SEC. 102. (a) There is established under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence who shall be the head thereof, and with a Deputy Director of Central Intelligence who shall act for, and exercise the powers of, the Director during his absence or disability. The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate, from among the commissioned officers of the armed services, whether in an active or retired status, or from among individuals in civilian life: *Provided, however,* That at no time shall the two positions of the Director and Deputy Director be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status.

Mr. GOLDWATER. Mr. President, if the Senator from Missouri will yield I do not have a copy of the Senator's amendment but I made a note as it was read.

It states:

The Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency, and for intelligence work performed by or on behalf of the Army, Navy, and the Air Force.

Now would the Senator break that down into, say, the intelligence that is acquired by a photorecon flight, one, or the intelligence——

Mr. SYMINGTON. May I ask the Senator if he is speaking on my time or on the time of the opposition?

Mr. GOLDWATER. I am not sure that I oppose it. I want merely to find out how deep the Senator wants to go.

Mr. ELLENDER. I yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. GOLDWATER. I thank the Senator from Louisiana for yielding me this time.

What disturbs me, as the Senator knows as well as anyone else in this Chamber, the Army and Navy, the Air Force and the Marine Corps are always, constantly, engaged in obtaining battlefield intelligence and information, some of which applies to the kind of intelligence we are discussing here and some of which applies to intelligence needed to conduct a battle. But the thing that disturbs me is, is there any way to allocate or to determine the cost of that kind of intelligence?

Mr. SYMINGTON. I say to the Senator I do not know. No doubt millions of Americans have seen the chart in Newsweek magazine, however, a chart called "The United States Intelligence Community." It does not give figures for that Agency which, to the best of my knowledge, spent by far the most money, but it does say in the chart that the Army has 38,500 intelligence staffers and a budget of $775 million; that the Navy has 10,000. It does not give the Navy money; that the Air Force has 60,000 staffers with a budget of $2.8 billion. It says the Central Intelligence's budget is $750 million. It says the Defense Intelligence Agency has a budget of $100 million and spends an added $700 million through Armed Forces. Then it goes into additional agencies—six of them, no figures.

I am a member of Armed Services, an ad hoc member of Appropriations, a member of the CIA Subcommittee, and a member of the Foreign Relations Committee, and I would like to know what is going on in this vital field.

When we read that $6 billion is being spent on intelligence, that may be billions of dollars too high, but I would like to know something about it.

Mr. GOLDWATER. The thing I am trying to satisfy in my own mind is how we would go about the bookkeeping of the very elementary type of intelligence-gathering that involves a patrol sent out for intelligence purposes?

Mr. SYMINGTON. The figure I state in the amendment is too high, according to some—$4 billion.

Mr. GOLDWATER. I am not arguing with the Senator about that. I am inclined to agree with him, but I think the amendment would be better—and better understood—if we did not get down to the nitty-gritty of 1 and 1 is 2, at the sergeant or the private level, who is sent out to undertake a photo reconflight.

I am speaking here to their problems and their costs. The question I had is: How far down the hole do we go before we stop?

Mr. SYMINGTON. Let me answer my able friend in this way. We had staff men go in certain areas of the world and they found great duplication. They found the intelligence units of the CIA, the Department of Defense, the Army, the Navy, and the Air Force all directed to particular intelligence, tremendous duplication, therefore waste.

If it is clarification that the able Senator wants, that is what I want—namely, what we are doing month after month with these gigantic sums of money being expended in the intelligence field.

If we are going to have a Congress that means anything, prerogatives, the proper Senate committees ought to be informed.

Mr. GOLDWATER. I am not arguing with the Senator.

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

Mr. ELLENDER. Mr. President, I yield the Senator from Arizona 1 additional minute.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 1 additional minute.

Mr. GOLDWATER. Mr. President, lack of redundancy is the secret of what to my opinion is the best intelligence of the world, the British Intelligency Agency. We have three separate groups that keep piling in an input of redundancy, and each of them becomes a problem of determining which are the most valid.

I thank the Senator from Missouri.

Mr. SYMINGTON. Mr. President, again the House Appropriations Committee, this month, said:

The committee feels that the intelligence operation of the Defense Department is growing beyond the actual needs of the department and are now costing an inordinate share of the fiscal resources of the department. Redundancy is the watchword of any intelligence operation. The same information sought to be obtained by various members and various organizations is naturally less effective than it should be.

Naturally that stimulated my interest in trying to get at the facts.

Mr. STENNIS. Mr. President, I want to speak after the Senator from Louisiana. However, will the Senator yield me 2 minutes for the purpose of asking a question on that point?

Mr. ELLENDER. I yield 2 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I refer to the same sentence that the Senator referred to with respect to the intelligence of the Army, the Navy, and the

Air Force. The Senator does not mean to include what we call tactical intelligence that is done at the level of a battalion?

Mr. SYMINGTON. No.

Mr. STENNIS. He does not mean where a colonel would order a captain to go out and patrol for the purpose of seeking out and getting prisoners to try to get intelligence about the enemy.

Mr. SYMINGTON. I would not want to include the battlefield, but I do want to include all military operations of the Central Intelligence Agency. The Secretary of Defense stated, in open session:

> We have no Pentagon military operations in Laos.

I believe that is true because he said it. This means the Central Intelligence Agency is running the war in Laos, and if so, the Foreign Relations Committee and the Armed Services Committee ought to know at least something about it.

Mr. STENNIS. Mr. President, for one illustration, the Senator's amendment refers to what are in the budget items here for the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency. That is the primary references and inclusions that are in the Senator's amendment.

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

Mr. ELLENDER. Mr. President, I yield 1 additional minute to the Senator from Mississippi.

Mr. SYMINGTON. No intelligence unit should evade the purposes of my amendment by delegating some of the work they would normally do to the Army, the Navy, or the Air Force.

Mr. STENNIS. I agree.

Mr. SYMINGTON. I feel that without reservation because in this article they state:

> Bureaucracy has transformed what began as an amateurish happy few into a sprawling intelligence conglomerate encompassing more than a dozen government agencies, 200,000 employees and a budget of some $6 billion a year.

Mr. STENNIS. Mr. President, I thank the Senator. We will come back to that point later. I know that the Senator from Louisiana wants to speak now.

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

Mr. SYMINGTON. I will be glad to yield on my own time to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I would like to say that the distinguished Senator from Missouri has opened the door on one of the great issues for the country and for the Congress.

The Senator is quite aware that he has touched on a very sensitive nerve because billions of dollars of intelligence funds are contained in this appropriation. No one can tell where in this bill those funds are. When they read a line item and find that there is so much for aircraft, or for a carrier, those may or may not be the real amounts.

This practice gives rise to questions about every item in the appropriation. I want to ask the Senator why he thinks it is necessary to keep secret the amount of money to be allocated from this appropriation to the National Security Agency. Everyone knows what the NSA does. They read about it in the newspapers. Why is it necessary? What purpose is served by keeping it secret?

Mr. SYMINGTON. Mr. President, I do not know. Much of it slips out.

For example, on March 31, 1971, in the Senate Armed Services Committee hearing, I asked the question:

> On page 2 of the congressional data sheet the last item on the table of aircraft procurement program is "classified projects" $579,800,000, requested for 72. This is almost one-fifth of the total aircraft procurement request. Would you please tell us briefly what are the major projects in this category.

General Crow replied:

> Because of classification, it can only be provided in oral briefing.

That exchange was declassified and then made a matter of public record.

In the published hearings last year of the House Appropriations Committee, then Assistant Secretary of Defense Froehlke, now Secretary of the Army, was plenty critical of the intelligence setup.

He said the cost of all military intelligence activities, excluding tactical intelligence, was $2.8 billion; and that figure was published.

I want to be careful that through legislative history we do not counter what we are trying to do, namely, get the facts.

Mr. FULBRIGHT. Every time an appropriation comes along, we are told that the Russians are out-distancing us everywhere. We are told this by the same Senators. It is like the swallows coming back to Capistrano. And I wonder how that can be because we spend a lot more money than the Russians spend. We have asked Mr. Helms about this. One explanation may be that we devote so much of the money in this bill to nonmilitary items such as intelligence. That may be an explanation. It has always been a puzzle to me why we get so little in hardware for our money. We are told that we are a second-class power, that we do not have as many airplanes or ships as the Russians. We hear this all the time.

Either we are, or we are not, as strong as we say. Certainly we spend plenty of money. Are hearings held in the Committee on Armed Services on this issue? Has the Senator ever attended any hearings on the question of the activities of the National Security Agency?

Mr. SYMINGTON. We were briefed by the Director of the Central Intelligence Agency twice, the full committee, last January; and then again this morning.

Mr. FULBRIGHT. Did he discuss how much was spent by the National Security Agency?

Mr. SYMINGTON. I asked but he did not know.

Mr. FULBRIGHT. He does not know?

Mr. SYMINGTON. He does not know about the others, only his own in any detail.

Mr. FULBRIGHT. Is he not the head of what is referred to as the intelligence community?

Mr. SYMINGTON. He is the chairman of the National Security Council Intelligence Committee.

Mr. FULBRIGHT. Then his role is that of a coordinator. If anyone knows about this new reorganization, should it not be Mr. Helms?

Mr. SYMINGTON. That is what we are trying to find out. It is all plenty fuzzy.

Mr. FULBRIGHT. Was there no testimony on the question of intelligence in the Committee on Armed Services that the Senator knows of?

Mr. SYMINGTON. No.

Mr. FULBRIGHT. And the Committee on Armed Services does not authorize anything specifically for intelligence?

Mr. SYMINGTON. There is no authorization in any way to pass upon intelligence activities in the Committee on Armed Services. The able chairman of the committee is in the Chamber. He could so verify.

Mr. FULBRIGHT. How long has the Senator been a member of that committee?

Mr. SYMINGTON. It will be standing 20 years next January.

Mr. FULBRIGHT. Would not the Senator have heard of such hearings if they took place?

Mr. SYMINGTON. I would think so.

Mr. FULBRIGHT. The Senator hears of all hearings that take place in the Committee on Foreign Relations. Is that correct?

Mr. SYMINGTON. Yes.

Mr. FULBRIGHT. What is the motive or reason for keeping secret the amount of money being spent, for example, by the National Security Agency, which I suspect is the largest operation? Why is the amount of money secret? I am not talking about who their spy is, if they have one. Why do they insist on secrecy about the amounts?

Mr. SYMINGTON. I do not know.

Mr. FULBRIGHT. Do they think the Russians do not know we have the National Security Agency?

Mr. SYMINGTON. The worst spy we ever discovered was probably in the National Security Agency, a sergeant who was leading a gay and double life, a spy who, when caught, killed himself.

The point of my amendment is to emphasize that we in the Committee on Armed Services and the Committee on Foreign Relations do not have anything like the necessary facts to properly allocate the increasingly limited resources of this country between international and domestic programs.

Mr. FULBRIGHT. In this overall question the Senator spoke about secrets, and there are classes of secrets, of course. The Senator talks about battlefield secrets. Nobody is asking how many men are being sent out on a foray into enemy territory. We are interested in the amount of money that goes into this bill for intelligence because it is a very large amount. I have not heard any suggestion, any legitimate reason, why that amount should be secret, other than one last suggestion. Is this just a way to cover up expenditures so there can be no accounting to the public or Congress?

Mr. SYMINGTON. There are no five gentlemen anywhere——

Mr. FULBRIGHT. That is not the question.

Mr. SYMINGTON. Let finish my sentence.

There are no five gentlemen, in the Senate or anywhere else I respect more

than these four and one lady. But this protest of mine is against the system, not the people involved.

Mr. FULBRIGHT. I hope that the Senator does not infer that my question is based on any suspicion about any Member.

Mr. SYMINGTON. No.

Mr. FULBRIGHT. If the Senator wants to raise that issue let me say that I have the greatest respect for the Senator from Louisiana and I am willing to turn the whole Senate over to him and go home because he has the experience. I am as fond of him as I am of any man in public life. That is not the question.

Mr. SYMINGTON. I agree.

Mr. FULBRIGHT. The Senator from Louisiana is a Member of this body and has been for a long time, and I am sure he does not take the position he should pass on all issues that come here because he has had long experience. That is not the system. I do not understand why the overall amount for these activities has to be secret.

Mr. SYMINGTON. Neither do I.

Mr. FULBRIGHT. It is a very bad practice because it casts doubt on this whole appropriation. When you look at an item in this bill you wonder if it is really the amount of money for the A–14, for example, or if it is for the NSA. One cannot tell what it is.

Mr. SYMINGTON. The Senator is correct.

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

Mr. SYMINGTON. I yield to the able Senator from California.

Mr. CRANSTON. Are there references in the appropriation bill to funds for intelligence uses?

Mr. SYMINGTON. No.

Mr. CRANSTON. How are they provided for; by padding other categories?

Mr. SYMINGTON. I am not sure I have enough knowledge to answer. Presumably yes.

Mr. CRANSTON. What is the Senator's answer on what is provided to the intelligence community?

Mr. SYMINGTON. I have heard so many varying facts that is another primary reason I introduced the amendment.

Mr. CRANSTON. The Senator has no estimate?

Mr. SYMINGTON. I have no estimate that in any way could be considered remotely accurate.

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

Mr. SYMINGTON. I yield.

Mr. COOPER. Do I understand that the purpose of the amendment is that as these appropriations or the money spent in these intelligence functions are not known and are not directly authorized or appropriated by Congress and the Senate, that the Senator wants to make it a matter of precedent and right that the Senate and Congress should actually authorize and appropriate these funds?

Mr. SYMINGTON. That is correct. As a matter of right, I believe there are certain committees, the Committee on Armed Services and the Committee on Foreign Relations, that should know in executive session about the authorization and appropriation of moneys in this intelligence category.

Mr. COOPER. I would make one comment.

It is always a matter that is troublesome because it could involve security, but it is a fact we learned during the last several years that without the knowledge of Congress our country has become involved in pressures that led to a long and costly war.

Mr. SYMINGTON. The Senator is so right. That is one of the primary reasons for my amendment.

Mr. ELLENDER. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. ELLENDER. Mr. President, I regret that the Senator from Missouri saw fit to introduce this amendment. Of course, I am opposing it.

I have been in the Senate for 35 years. I have been on the Committee on Appropriations for about 22 or 23 years. Ever since I have been on that committee, all the appropriations affecting our sensitive intelligence program have been handled by only a few Members of the Senate and a few Members of the House. Twenty years ago we started out with two Members. That number has been increased to five, who are chosen from the Committee on Appropriations. That has been the method that has been followed all these years.

I would hesitate to have these programs submitted to the committee of the whole because of the highly sensitive nature of the material that come before us. In order to justify the amounts asked, we are told the reasons why it is needed.

My fear is that if this material were made widely available, we would do harm to our own intelligence operations. Of course these intelligence operations are a very important part of our overall defense.

I do not understand the extent of the amendment of my good friend from Missouri. The amendment reads:

> The Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency, and for intelligence work performed by or on behalf of the Army, Navy, and the Air Force.

Well, of course, much of the intelligence gathered, whether it be tactical or not, is gathered either by the CIA or the Defense Department.

This method of appropriating funds for these intelligence activities has been in effect for at least 20 years that I know of, since I have been on the committee. We five who sit on this committee hear the testimony of those applying for funds. The funds are justified to us. We ask many questions. None of this information is in writing, nor is it recorded, but it is simply given to us, and we weigh it and then recommend appropriations as is seen fitting.

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

Mr. ELLENDER. I yield myself 5 minutes more.

There is no specific appropriation for the intelligence activities. They are funded from many different appropriations included in the bill.

Mr. President, as I said, this is a rather ticklish subject. It is a subject that I do not care to discuss in the open. I believe that the Senator from Missouri (Mr. SYMINGTON), and, as a matter of fact, any other Senator on the committee who desires to be briefed by the Defense Department or by the Central Intelligence Agency may be briefed. We request it at times. There is nothing to stop the Senator from Missouri (Mr. SYMINGTON) or the Senator from Mississippi (Mr. STENNIS) from calling Mr. Helms before the committee to give them an idea of what he is doing. But this matter of justifying the amount of money asked in order to carry on intelligence has been for years confined to a few people, because of the sensitivity of the subject. I am very hopeful that that method can be continued.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. ELLENDER. In 1 minute.

When I first became one of the five, I attended these hearings. The late Senator Russell was then chairman of the committee. I attended the hearings and took a good deal of interest in them. After hearing both the Defense Intelligence as well as the CIA requests, I thought that there was somewhat more money asked for than needed. So my first effort as a member of the five was to reduce the number of people engaged in intelligence. As I recall, we asked that the number of persons engaged in certain intelligence activities be reduced by 5,000, and that was done.

Mr. President, I wish to say that this year, instead of trying to reduce the number of persons, we actually reduced the amount of money requested.

I wish to point out that I have discussed this matter with Mr. MAHON, who is chairman of the House Appropriations Committee. We discussed together what ought to be done to reduce the amount of money that was requested for intelligence. I gave him a few ideas of what I proposed to do.

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

Mr. ELLENDER. I yield myself 3 more minutes.

I wish to say that he not only listened to me, but adopted some of the ideas I gave him. So the House reduced the intelligence request by $320 million, and the Senate committee reduced the amount by $70 million more, making a total reduction for this year in the amount asked of $390 million.

I think that is a substantial reduction in our intelligence. I want to pledge to the Senate that as a member of the five, I shall continue to look more deeply into this matter, in the hope of being able to cut back a good deal more than the cut made this year.

These cuts were made by our committee and by the House after careful hearings of Defense Intelligence as well as the CIA. I would hesitate to suggest that more Senators and more Members of the House be involved in this sensitive work.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. ELLENDER. I yield.

Mr. FULBRIGHT. This intelligence covers a lot more than intelligence gathering. Does it not also cover, for example, the cost of the organization of the war in Laos, supported by the CIA? Would that not be included in this same amount of money? It is financed through the CIA. This is no secret. It has been published.

Mr. ELLENDER. I saw it publicized——

Mr. FULBRIGHT. Perhaps the Senator does not agree to it, but it has been published. But suppose, as a hypothetical case, that it is carried on by the CIA. Would not that operation be carried in this amount?

Mr. ELLENDER. For that activity?

Mr. FULBRIGHT. Yes, for the manpower. It has been stated that the CIA has 36,000 there. It is no secret. Would the Senator say that before the creation of the army in Laos they came before the committee and the committee knew of it and approved it?

Mr. ELLENDER. Probably so.

Mr. FULBRIGHT. Did the Senator approve it?

Mr. ELLENDER. It was not—I did not know anything about it.

Mr. FULBRIGHT. So the whole idea of Congress declaring war is really circumvented by such a procedure, is it not?

Mr. ELLENDER. Well, Mr. President, I wish to say that——

Mr. FULBRIGHT. Is it not?

Mr. ELLENDER. No; I do not think so.

Mr. FULBRIGHT. Well, if you can create an army and support it through the CIA, without anyone knowing about it, I do not know why it is not. That is a hypothetical question I am asking.

Mr. ELLENDER. I understand. But, Mr. President, I wish to say that I do not know. I never asked, to begin with, whether or not there were any funds to carry on the war in this sum the CIA asked for. It never dawned on me to ask about it. I did see it publicized in the newspapers some time ago.

Mr. FULBRIGHT. Well, this has been publicized often. But the CIA has many large operations. They operated a revolution in Guatemala some years ago, and threw out the government. But does not the Senator think Congress ought to know?

Mr. ELLENDER. Well, let Congress change the rules, if it so desires. Let Congress designate more than the five we have. But I would like to see it proceed in an orderly fashion, the same as it has in the past, and if the distinguished Senator from Arkansas——

Mr. FULBRIGHT. Let me ask, why does the Senator seem to think it is so necessary to keep secret the operations in Laos, as opposed to Vietnam? We have great publicity on Vietnam; why does the Senator think it has to be secret, the operation in Laos?

Mr. ELLENDER. It is apparently not secret, since the Senator knows about it. I think the Senator from Missouri (Mr. SYMINGTON) has sent some investigators out there and secured a lot of information that he made public.

Mr. FULBRIGHT. Well, the newspapers published the information before that. We were alerted to the situation when I first read about it in a newspaper account, and then we sent the people out there to check on it, it was so amazing.

Mr. SYMINGTON. Mr. President, if the able chairman will yield, I have never published any information along this line that was not cleared first.

Mr. FULBRIGHT. One of the reasons why this committee was created was as a result of reading in the newspapers just such stories, because it was incredible that we were supporting an army of 36,000 and paying for it without knowing about it.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. ELLENDER. I yield 10 minutes to the Senator from North Dakota.

Mr. FULBRIGHT. I wonder if the Senator would give us the reason why this should all be secret.

Mr. YOUNG. Mr. President, I have served on this Intelligence Subcommittee on Appropriations for 5 or 6 years, and this is the first time I ever attempted to defend what the CIA or any intelligence agency does. In order to do it, you would have to document your case, and one cannot document intelligence and spying. Spying is a dirty business, but it is a business every nation in the world engages in. Russia does a bigger job of it than we do. You cannot disclose secret information. But it is very valuable to us. It was very valuable to know, when we had the showdown with Cuba, just what the Russians would and would not do.

This five-member committee was not publicized or listed until about 3 or 4 years ago. The House of Representatives does not list their names yet.

You always have to have some secrecy in Government. For example, when the atomic bomb was developed, if there had been more than 10 people in the House and Senate who knew about that, it would have been public knowledge. But this was one of the best kept secrets in history.

You have all kinds of intelligence. For example, the satellites are intelligence-gathering vehicles. Would a weather satellite be an intelligence-gathering vehicle? It could be a part of military intelligence. That knowledge is very important to them. Does the Symington amendment include this?

As to all these press stories we read and hear, this is an interesting subject to write about, of course. People like to read them. I do, too. And if you want to read something very interesting and authoritative where intelligence is concerned, read the Penkovsky papers. Penkovsky was a Russian spy who became very disillusioned with the Russian Government, and told us all he knew about Russian intelligence, and he was caught. He knew he was going to be caught eventually, and he was caught and killed.

But this is a very interesting story, on why the intelligence we had in Cuba was so important to us, and on what the Russians were thinking and just how far they would go. For the life of me, I cannot understand what the amount of money we spend for intelligence would have to do with the Committees on Foreign Relations or Armed Services.

What the Senator is interested in is intelligence. So far as I am concerned, there is no objection to that committee from whatever intelligence they are able to get.

Mr. FULBRIGHT. No; I am not interested in the spies and their mistresses, and the Goldfinger type of thing. But here is a vast amount of money. I gave one illustration. Does not the Senator think it is our responsibility to know about the kind of activity in Laos, which I am quite certain is going on? In fact, I know it. But we were first alerted through the newspapers of the army there.

The Senator says it was a tremendous thing to keep the atomic bomb secret. As a matter of fact, suppose it had been known we were making one, what would have been the harm in that? It was not the secrecy that was significant, it was the fact that we succeeded. I do not know why the secrecy was all that important. If they had known we would have it in advance, it is quite possible that we would not have had to drop it. I do not know; that is a speculative matter. But I am not impressed with the argument that it was so important to keep it secret, other than perhaps as far as the technical thing was concerned.

When Roosevelt asked for 50,000 airplanes, everyone knew we were going to build 50,000 airplanes. We did build them, and used them.

But this secrecy and classification has become a god in this country, and those people who have secrets travel in a kind of fraternity like a college secret society, and they will not speak to anyone else. Yet the Senator wants us to appropriate the money and vote for the bill. I want to say that I find it very difficult to vote for a measure as to which I do not know whether the amount involved is $5 or $10 billion. When I think about what a poor, second-class Nation we are said to be militarily, although we spend twice as much as the Russians, it occurs to me that it may be $20 billion, for all I know.

I cannot understand why it is so important to be secret. As the Senator said, we know that the Russians do it, and the Russians know that we do. Everyone knows that we monitor their shots, just like they monitor ours. We all do the same thing. There is no secret about that, except that we do not know what we are spending on it, and how much it is, and we also do not know about the operations that are not intelligence gathering.

It is very unusual that we have an agency called an intelligence agency out operating a war. That is like the Pentagon. It is not gathering intelligence in Laos; I submit it is organizing and paying for a war. It is running airlines and paying for them. That is not intelligence gathering at all.

Mr. YOUNG. Is the Senator talking on his time or mine?

Mr. FULBRIGHT. I just ask the Senator, why should that be a secret? I really do not know. If we hire citizens of other nations to do in Cambodia what our own people are forbidden to do by law, does the Senator think that is good?

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. ELLENDER. I yield 1 more minute.

Mr. YOUNG. I read in the magazines and newspapers where the CIA was supposed to be hiring soldiers in Laos. If they hired some there, I am not opposed to it. The British have hired soldiers for 500 years. If someone was hired to interrupt the movement of goods and equipment down the Ho Chi Minh Trail, I am not opposed to that.

Mr. FULBRIGHT. Maybe it is a good thing, but why the secrecy? I am not now saying that it is good or bad. I am asking, why should it be so secret?

Mr. YOUNG. You can find out that much without knowing the amount of money they are appropriated. The amount of money is certainly not so important as the amount of intelligence. The Senator can get that as well as I can.

Mr. FULBRIGHT. If the money in here for intelligence is $20 billion, I think that is very important for the Senate to know.

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDER. I yield 10 minutes to the Senator from Mississippi.

Mr. FULBRIGHT. Could the Senator say what percentage the committee cut the budget? Would he say they cut the budget 20 percent, or 10 percent?

Mr. ELLENDER. We cut the budget $390 million.

Mr. FULBRIGHT. Is that 20 percent, or 10 percent?

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, for what length of time am I recognized?

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

Mr. STENNIS. May I ask what time remains to the two sides?

The PRESIDING OFFICER. The remaining time is 13 minutes on each side.

Mr. STENNIS. Mr. President, I thank the Senator from Louisiana for yielding to me.

Mr. President, to try to settle a matter such as this, involving our activities all over the world—open and secret—with 45 minutes of debate to a side, to me, is tragic. I want to underscore that to every Member of this body, and with great respect for the author of this amendment. He and I really have rather good feelings for each other, I think.

Mr. SYMINGTON. We certainly do.

Mr. STENNIS. I think it is a great tragedy, and I would like the elected leaders of this body to hear what I am saying about that. It is absolutely impossible even to begin to state the facts, much less argue or explain the procedures about this matter. It is tremendous. It is perhaps the most important work we do in all the national security element.

There has been talk about it not being itemized in the bill. Did you ever see the U–2 itemized in any appropriation bill? Of course not. But it was through the U–2 that we got the most valuable information that perhaps we ever have gotten. It saved us hundreds of millions of dollars—billions, I think—and caused us to arm in time.

I will not go into any further details on that. That is just one illustration.

As I say, you cannot begin to go into this matter. But the question has been raised about the secrecy, why the secrecy, and I refer now to section 6 of the amendments to the National Security Act. The amendments were passed in 1949, as I recall. My time will be up almost by the time I read this special section. This is the law that Congress passed at that time for the security system we were trying to set up.

> Section 6. In the interests of the security of the foreign intelligence activities of the United States, and in order to further implement the proviso of section 403(d) . . . of this title, that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the agency shall be exempted from the provisions of section 654 of title V . . .

As I recall hurriedly, this relates to the disclosures. Some of these titles have been repealed, but this is the blanket that was put on it then.

> . . . and the provisions of any other law which require the publication or disclosure of the organizations, functions, names, special titles, salaries, or numbers of personnel employed by the agency.

That is the ban of secrecy that was put on it when we enacted this law. That is indicative of what Congress thought about it—suspended all the other requirements, and all laws, and so forth. Further:

> Provided that in referring to this section, the Director of the Bureau of the Budget shall make no reports to Congress in connection with the agency under sections 947 . . . of title V.

I understand that that is a reference to personnel, and I do not know what else. Those sections have been repealed a little, changed a little, reenacted, and so forth.

But there is the secrecy. It was in the atmosphere of this guideline that men such as Styles Bridges, former chairman of the Appropriations Committee—some Members of the Senate knew him; the late Senator Russell—many of the Senators knew him; Leverett Saltonstall; and a good number of others worked out a plan, trying to carry out their functions. They worked out a plan whereby this matter would be taken care of.

My goodness, talking about trying to keep something secret from some other Senator or somebody else. Trying to protect this country. It is in that spirit that this matter has been carried on—not a pleasant duty, by any means. I will get out anytime someone holding a responsible position in the Senate, such as our leader, says who has been selected and who will take my place.

This is the most grave thing I have seen come before the Senate, to handle it this way. I have no criticism of my friend here. But that is the gravity of it. It can be proved by other sections of the law.

The whole Central Intelligence Agency is brought into focus here. I want to say that I have been watching them for quite a while. This Agency is conducted in a splendid way. Except for salary increases, it has been reducing expenditures for the last several years. It has been reducing its budget. It carries on its job in a professional way, in the finest way.

There is a new intelligence plan of some kind. I call it a plan, and we are going into it now. That came out of the White House. We can argue about that, make fun of it. But intelligence is not a laughing matter. We are going into that fully now. I was not advised about it beforehand. I do not expect anybody to give me a great deal of attention, but I wish the chairman of the Armed Services Committee and the ranking member had been advised about it, and Appropriations. But they were not. But we are going into it now.

My impression is that we are talking about someone being kicked upstairs and denied authority and some other fellow put in. I do not know whether that is true or not, but I do not believe it is. Helms does not think so. But we are getting to the bottom of it. As soon as I heard this, I called him up and told him:

> You are the only man who has been approved by the committee and the Senate to be Director of the CIA. You are the only man we approved, and you are the only man, so far as I am concerned, who is going to be its director, until we do something about it.

That was with all deference to the deputy. I want a civilian in control of that agency, for my part. We had to approve this man. He assured me that his dominance over it, his effectiveness, his powers over, it will not be diminished one bit. He told us that today. We had a hearing on this matter.

That is just touching the high points. But we are going into it, and we are going to analyze it and study it and have an investigation—if one wants to use that word—if necessary. We do not take these things lightly. The stakes are too high.

Now, about these other agencies. Senators know what they get into. I am not going to delineate any more. I mentioned the U–2. I do not like some things about intelligence. As has been said, spying is spying. But if we are going to have an intelligence agency, we have to have an intelligence agency, and it cannot be run as if you were running a tax collector's office or the HEW or some other such department. You have to make up your mind that you are going to have an intelligence agency and protect it as such, and shut your eyes some and take what is coming.

This is a great deal of money here. I want to refer now to the last few words in the Senator's amendment. I do not know how far down the line that language goes, but I think it goes much farther down the line of intelligence than anything we handled in the method we talked about.

That language is broad enough to go to tactical intelligence. Every military unit in the field has an intelligence officer. In Vietnam they have to go out—we have heard the Senator tell about it—we send a major or a captain out with a patrol to try to take prisoners, and the prisoners are quizzed, to try to find out about the enemy. I think this language is broad enough to cover that sort of

activity: tactical patrols. But it is not a budgeted item in the bill or in any of the matters I have been talking about. We would not know where to start. I do not know how much these tactical intelligence activities cost. It is not a budgeted item. There is no way to calculate it. That is part of running the Army. That is part of running the Navy. Think, for example, about the big sums of money that must have been spent in Korea on such tactical intelligence.

Mr. FULBRIGHT. Mr. President, will the Senator from Mississippi yield for a question?

Mr. STENNIS. I do not yield at this time. This is all so tragic—so little time I have to yield to any Senator—I can talk to Senators about this matter in the cloakroom, or in their offices, or in my office, but here tonight, in just a few minutes on this ending matter, I am not going to use my time to try to answer questions that way. I say again, I wish the leaders were in here—they are busy somewhere else—so that I could try to impress upon them the necessity for further time. I did not hear the unanimous consent request about the limitation. I was handling another matter then. It will take hours and hours fully to explain this matter, so that this body could intelligently pass on it. The Senator is giving an absolute figure here which, according to the interpretation, is far, far beyond what the Senator would intend to do. So in the last 10 seconds here, let me warn about the necessity that the only thing to do now is to vote this amendment down, and then take up the cudgels and the problem again and work it out some other way.

Mr. SYMINGTON. Mr. President, I am impressed with the observations of the chairman of the Armed Services Committee, his stating this amendment is not drawn properly, and so forth. I wish his interest in the subject had developed to the point where he had held just one meeting of the CIA subcommittee this year.

To show the lack of respect the executive branch has for the Senate, there was not one Senator who was approached in any way before the White House made this basic, major reorganization of our entire intelligence apparatus.

Mr. STENNIS. We will attend to that one, Senator, too.

Mr. SYMINGTON. As a longtime member of the Committee on Foreign Relations, as an ad hoc member of the Appropriations Committee and the ranking member of Armed Services, I respectfully plead with my colleagues to allow me to receive in executive session enough intelligence information to in turn form an intelligent judgment on matters which so vitally affect our security; and so I can vote in committee and on the floor of the Senate on the basis of the facts. There have been several cases where I have not been able to do that in the past. In my opinion, this lack of disseminated information has cost the country a great deal of treasure and a number of American lives.

Now, Mr. President, I yield 3 minutes to the Senator from California (Mr. CRANSTON), and then 1 minute to the Senator from Arkansas (Mr. FULBRIGHT).

Mr. CRANSTON. I would like to address some questions to the distinguished chairman of the committee. The chairman stated that he never would have thought of even asking about CIA funds being used to conduct the war in Laos. I am sure I never would have thought to ask such a question. But it appeared in the press that perhaps that was happening. I would like to ask the Senator if, since then, he has inquired and now knows whether that is being done?

Mr. ELLENDER. I have not inquired.

Mr. CRANSTON. You do not know, in fact?

Mr. ELLENDER. No.

Mr. CRANSTON. As you are one of the five men privy to this information, in fact you are the No. 1 man of the five men who would know, then who would know what happened to this money?

The fact is, not even the five men, and you are the chief one of the five men, know the facts in the situation.

Mr. ELLENDER. Probably not.

Mr. CRANSTON. The Senator stated that $390 million has been cut. I applaud that action. Could the Senator tell me what figure in this bill is cut by $390 million, or is there no figure that has been cut specifically?

Mr. ELLENDER. No specific figure.

Mr. CRANSTON. What is the total figure appropriated—the total amount appropriated by the bill?

Mr. ELLENDER. The total of the bill as reported is $70,242,513,000.

Mr. CRANSTON. When we run through the bill, we find that there is allocated money for pay and allowances, for individual clothing, for subsistence, for interest on deposits, for retirement pay, for travel, for operation and maintenance, for medical and dental care, for welfare and recreation, for medals and awards, for emblems and other insignia, and then an itemization for the hiring of people, and miscellaneous items such as procurement of aircraft, procurement of naval vessels, leasing of buildings, the purchase of milk, itemized figures on expenses of prisoners, figures for each of those, and so forth. Is the way these items are handled inflated, or bloated, in fact—some of them, at least—that will cover up what is in this bill for intelligence?

Mr. ELLENDER. Yes, the Senator is correct—some of it.

Mr. SYMINGTON. Mr. President, I yield 1 minute now to the Senator from Arkansas.

The PRESIDING OFFICER (Mr. TALMADGE). The Senator from Arkansas is recognized for 1 minute.

Mr. FULBRIGHT. The Senator from Mississippi, whom we all respect so greatly, I think "protesteth too much." All the amendment does is simply to put a ceiling on the overall amount which may be expended for intelligence activities. The amendment has nothing to do with secrecy. It does not in any way seek to make public any of the State secrets the Senator referred to. His comments are utterly irrelevant to the amendment, I believe. This is a simple amendment, merely trying to put a ceiling on intelligence expenditures. It is also rather odd that the Senator from Mississippi said he does not know what is spent for intelligence, and yet the chairman of the Appropriations Committee said that we cut it $390 million. What was the original amount from which the cut was made? The overall amount to which the Senator from Missouri (Mr. SYMINGTON) refers is the same thing the Senator from Louisiana, who knows what he is talking about and, as chairman of the committee, spoke to this body about. Yet the Senator from Mississippi says he has no idea what is spent for intelligence.

The Senator from Louisiana knows what total he is talking about when he says it was cut $390 million. The Senator from Louisiana certainly has some figure in mind. He was not talking about sergeants going out, looking for booby traps. He had some total figure in mind. It is strange that the chairman of the Armed Services Committee has no idea what the Senator from Louisiana is talking about.

Mr. STENNIS. Will the Senator from Arkansas yield at that point?

Mr. FULBRIGHT. I do not yield to the Senator on my time. The Senator refused to yield to me. The Senator from Mississippi has tried his best to obfuscate this matter. If he is as serious about this thing as he says he is—and I think this is a serious matter, as a matter of fact, the most serious thing we have before us—I do not think it is tragic to bring it up. So why do we not have an executive session and talk about it at length?

If the Senator from Mississippi would like to have an executive session, we could talk about it all day, sometime next week, when we return after Thanksgiving.

We talk about intelligence. It is no secret from anyone that we are waging war in Laos and have been for a long time.

Mr. SYMINGTON. Mr. President, following the thought of the Senator from Arkansas, if the able chairman of Appropriations, the Senator from Louisiana (Mr. ELLENDER) and the able chairman of the Armed Services, the Senator from Mississippi (Mr. STENNIS) will agree to a secret session next week, so we could discuss this matter more thoroughly, I will withdraw my amendment tonight.

I ask the Senator from Louisiana and the Senator from Mississippi if they would agree to such a session?

Mr. ELLENDER. Answering for myself, I would like to complete this bill. If the Senator desires to talk about it after the bill is completed in executive session, that is all right with me. But I would not want it to interfere with the final passage of the bill.

Mr. SYMINGTON. Why not let the bill wait until we get more facts about the many billions of dollars involved?

Mr. ELLENDER. As I have said, we agreed on the time for the Senator to discuss the amendment. I am very anxious to complete the bill today if possible.

Mr. SYMINGTON. Mr. President, there has been much criticism of the time limitation and I see the majority whip on the floor. He would be the first to say I was anxious we not have any limitation. But I did finally agree. I also agree with the Senator from Mississippi that there should not be a limitation on time.

But if we want to proceed I ask unanimous consent we have another 2 hours.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard. Who yields time?

Mr. FULBRIGHT. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Missouri has 5 minutes remaining.

Mr. SYMINGTON. Mr. President, I say to my colleagues that I have been told in confidence different figures concerning how much money we were actually expending on national intelligence. As a result of people going into foreign lands we now know that much of what we are doing is both costly and unwise, actions we would have undertaken if we had had the right information. As the Senator from California pointed out, if we had had more information on certain important issues, we would have made different decisions.

All this amendment does is say we cannot spend more than $4 billion on intelligence this fiscal year.

I would hope that the Senate would agree.

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

Mr. SYMINGTON. I yield.

Mr. FULBRIGHT. Mr. President, I agree with what the Senator from Mississippi said about the importance of this. He said that we cannot dispose of all of this in a few minutes. I agree.

This amendment is a very important amendment. It seems to me that when this matter was brought up before, we did have an executive session and did discuss the matter.

Today we are much more critical of the amount of money we spend than we were at the time when the program developed.

It is important that the Senate, as a whole, understands what the intelligence program is. I would think the Senate would welcome an opportunity to have this explained. It would satisfy curiosity about this matter.

One of the things that worries me most of all is that I do not see any reason why we should pass appropriations for the CIA to organize an army, pay the troops, and conduct a full-scale war in Laos. Yet people of this country think we have a democracy in which a war, if one is to be fought, has to be declared by Congress. Yet Congress did not know about the war in Laos until it was well underway.

Today, while the war is known to everyone, there still is no official acknowledgement. There is nothing in this bill to indicate how much money we will spend in support of the army in Laos. It will be many millions of dollars. I do not see how we could support an army of the size we do without that much money.

I do not see what is wrong with knowing these things. This is an operation. This is not intelligence. It is the difference between the U–2 and the affair in the Dominican Republic, and upsetting the government in Guatemala. Maybe these things are good. But no doubt Congress ought to know about them so that it can decide.

Mr. SYMINGTON. One of the great surprises of my life was to find out how much of the money in this intelligence budget actually goes to the Central Intelligence Agency. The Senator feels the situation in Laos is very wrong. We could talk about other situations.

Mr. FULBRIGHT. The Senator reminds me of something about Mr. Helms. Mr. Helms has been far better with the Congress than any other intelligence man with whom we deal. I would put him at the top. The recent reorganization looks like an effort to curb Mr. Helms in favor of the Pentagon, and this what I do not like.

Mr. SYMINGTON. I do not either, moving into the hands of the military.

Mr. MATHIAS. Mr. President, the old saying that some may apply to this amendment is that one should not stir muddy water. For the Senator from Missouri has focused our attention on water that is not only muddy, but actually murky. Many Members may be reluctant to stir this water for fear of what they may find. I think we cannot delay much longer in turning our attention in this direction for fear that what is there may evade our examination and our concern.

But I find it intolerable that we should attempt to debate and decide this question with such a complete lack of firm facts and reliable information, and with the limitation of time and freedom of expression that is necessary under existing conditions. Under the circumstances, I feel unable to support this amendment at this time. I would support, however, a motion to hold an executive session at an early date at which the whole issue could be thoroughly and thoughtfully considered.

An alternative to an executive session of the whole Senate might be a joint meeting of the Foreign Relations and Armed Services Committees under appropriate conditions that would permit adequate investigation without jeopardizing security. While proper security is a national requirement, yet the Congress must have the facts in order to resolve the issues that are embodied in the reports of a secret war in Laos and other covert activities alleged to be conducted by one or another of our intelligence agencies.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Missouri. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Louisiana (Mr. LONG), and the Senator from Utah (Mr. Moss) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

Mr. GRIFFIN. I announce that the the Senator from Maryland (Mr. BEALL), the Senator from New Hampshire (Mr. Maine (Mrs. SMITH) are necessarily absent.

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

The Senator from Illinois (Mr. PERCY) is detained on official business.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) would each vote "nay."

The result was announced—yeas 31, nays 56, as follows:

[No. 394 Leg.]

YEAS—31

Bayh	Hart	Nelson
Burdick	Hatfield	Pell
Byrd, W. Va.	Hughes	Proxmire
Case	Humphrey	Randolph
Chiles	Inouye	Ribicoff
Cooper	Kennedy	Stevenson
Cranston	Magnuson	Symington
Eagleton	Mansfield	Tunney
Fulbright	Metcalf	Williams
Gravel	Mondale	
Harris	Montoya	

NAYS—56

Aiken	Eastland	Miller
Allen	Ellender	Packwood
Allott	Ervin	Pastore
Anderson	Fannin	Pearson
Baker	Fong	Roth
Bellmon	Gambrell	Schweiker
Bennett	Goldwater	Scott
Bentsen	Griffin	Sparkman
Bible	Gurney	Spong
Boggs	Hansen	Stafford
Brock	Hollings	Stennis
Brooke	Hruska	Stevens
Buckley	Jackson	Taft
Byrd, Va.	Jordan, N.C.	Talmadge
Cannon	Jordan, Idaho	Thurmond
Cook	Mathias	Tower
Curtis	McClellan	Weicker
Dole	McGee	Young
Dominick	McIntyre	

NOT VOTING—13

Beall	Long	Percy
Church	McGovern	Saxbe
Cotton	Moss	Smith
Hartke	Mundt	
Javits	Muskie	

So Mr. SYMINGTON'S amendment was rejected.

Mr. ELLENDER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENTS

Mr. MANSFIELD. Mr. President, it has been a long and hard 3 weeks. I know that some Senators are getting tired. Some would like to put the bill over until tomorrow. Others—I believe a majority—would like to finish it tonight.

It is my understanding that as of now we have only one amendment in contention, and the distinguished Senator from New Hampshire (Mr. MCINTYRE) has indicated that he would be willing to agree to a limitation of 20 minutes.

I ask unanimous consent that the Senator from New Hampshire be allotted 15 minutes and that the manager of the bill be allotted 5 minutes on that amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I understand that another possibly contentious amendment will not be offered, and that there will be an amendment

offered by the distinguished Senator from Nevada (Mr. CANNON) and by the distinguished Senator from Mississippi, both of which will be accepted, or at least accommodated. It would appear, if the Senate would agree, that we could come to a final vote on the bill at 9 o'clock or thereabouts.

Mr. BROOKE. Mr. President, I have an amendment which I hope would be accepted.

Mr. MANSFIELD. If it is not accepted, would the Senator agree to the most limited time possible in view of the circumstances?

Mr. BROOKE. Yes.

Mr. MANSFIELD. How much time?

Mr. BROOKE. Twenty minutes.

Mr. HUMPHREY. Mr. President, I have an amendment which I would like to propose, and I would be willing to limit it to a very small amount of time.

Mr. MANSFIELD. Ten minutes?

Mr. HUMPHREY. Ten minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time on the amendment of the distinguished Senator from Massachusetts (Mr. BROOKE) be limited to 20 minutes, with time to be equally divided, and that time on the amendment of the Senator from Minnesota (Mr. HUMPHREY) be limited to 10 minutes, the time to be equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. And that, at the conclusion of the consideration of these amendments, the Senate proceed to third reading and final passage.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I call up my amendments No. 749.

The PRESIDING OFFICER. The clerk will read the amendments.

The assistant legislative clerk proceeded to read the amendments.

Mr. McINTYRE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

Mr. McINTYRE. Mr. President, I ask unanimous consent that notwithstanding the fact that the figure on page 23, line 26, and page 24, line 1 has been amended, I be permitted to offer an amendment changing the same figure.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments of Mr. MCINTYRE (No. 749) are as follows:

On page 23, line 26, and page 24, line 1, strike out "$2,293,619,000" and insert in lieu thereof "$2,341,069,000".

On page 24, lines 10 and 11, strike out "$2,845,944,000" and insert in lieu thereof "$2,875,944,000".

On page 24, lines 24 and 25, strike out "$437,143,000" and insert in lieu thereof "$442,143,000".

Mr. McINTYRE. Mr. President, I ask unanimous consent to add as cosponsors of my amendment the distinguished Senator from Texas (Mr. BENTSEN), the distinguished Senator from Arizona (Mr. GOLDWATER), and the distinguished Senator from Colorado (Mr. DOMINICK), all members of the Subcommittee on Research and Development of the Armed Services Committee.

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

Mr. McINTYRE. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. McINTYRE. Mr. President, I would be remiss if I did not compliment the distinguished chairman of the Appropriations Committee and the members of that committee for the fine work they have done on the fiscal year 1972 defense appropriations bill. All of us in the Senate realize what a fine job the Senator from Louisiana has done. Their action which resulted in a cut of about $3 billion from the amount requested is highly commendable.

I am moved, however, to express my concern with one particular aspect of their actions. This involves a general reduction of $112 million in the research and development appropriations. Of this amount, $77 million was assessed to the Navy, $30 million to the Air Force, and $5 million, which also had been cut by the House, to the Advanced Research Projects Agency.

In my view, Mr. President, to reduce the budget request by a lump sum amount is unwise. It may be interpreted as sidestepping to a degree the need to examine the details of the major programs so that specific reductions can be made where and when supported by the facts. It may also be interpreted as relinquishing to the Department of Defense the responsibility for deciding how to spread the reduction; and that decision by Defense may not turn out to have been wise or in the best interest of the country. It is certainly an unjustified cut in the one R. & D. program of the Department of Defense which is the key to our technological lead over the Soviet Union.

Originally our subcommittee, in frustration, undertook to make percentage cuts which were entirely judgmental and arbitrary. When the full committee considered the subcommittee recommendations, I recall being asked why a given percentage was selected and why it could not be twice that or half that. I could not, in good conscience. I would guess, Mr. President, that the Appropriations Committee would have some degree of difficulty if similar questions were asked about the general reductions of $112 million. The fact that the Navy was requested to consider spreading their $77 million reduction among 57 programs at their discretion, and the Air Force $30 million among 33 programs at their discretion does not help the situation. If anything, this will cause a lot of squabbling within the services and the Department of Defense. I am concerned, too, that logic may be subordinated to loud and forceful proponents, or other unjustified influences.

I have learned my lesson well. In reviewing the fiscal years 1971 and 1972 R. & D. requests, although we were limited in time and had to devote many long hours in hearings and briefings, the major part of the budget was covered in detail. We on the subcommittee bit the bullet, Mr. President. As a consequence, we were able to come up with specific recommendations by individual programs right down the line, and they were sustained by the full committee and the Senate as a whole.

I cannot condone this practice, Mr. President, which to me is counterproductive in every sense of the word. It also contradicts the principles which we on the R. & D. Subcommittee have taken such great pains to uphold in steering the Research and Development Subcommittee through the authorization request for research and development.

To correct this situation, Mr. President, I have introduced amendment No. 749 to the pending bill which would accomplish the following:

First, it would restore $58,700,000 of the $77 million general cut made in the Navy program. Of the difference of $18,300,000, $12,300,000 has been proposed to be restored by an amendment introduced by my distinguished colleague from Colorado to the surface effect ship program. The remaining $6 million is not proposed for restoration because it is in excess of the total amount provided in the fiscal year 1972 military procurement authorization bill as passed by the Senate.

Second, it would restore the $30 million general cut made in the Air Force program.

Third, it would restore the $5 million general cut made by the House and sustained by the Senate Appropriations Committee in the program of the Advanced Research Projects Agency.

These actions, Mr. President, would restore these appropriations to levels which would be within the total amounts provided for these agencies in the military procurement authorization bill as passed by the Senate.

I should mention, Mr. President, that my comments are not intended to apply solely to the Appropriations Committee in its action on the defense budget. They apply to all committees of both Houses of Congress which have the responsibility for legislation involving the use of the taxpayer's dollar.

I certainly hope that the amendment will receive the approval and the backing of my fellow Senators.

Mr. President, I point out that my serious objection here is summed up in a statement on page 176 of the report of the Appropriations Committee, as follows:

General reduction.—It is the view of the committee that substantial savings can be made by a careful review of the requirements for the numerous projects included in the planned fiscal year 1972 program, and a $77,000,000 general reduction is recommended. While this reduction has not been applied to specific projects, the committee requests the Navy to consider the application of the total reduction to the following projects:

And then it lists about 70 of them.

Mr. President, in the subcommittee of the Appropriations Committee that I chair, we went to work on some 17 of these particular programs, and in some instances, when the case was made, for example, by the Navy, we sustained their

request; in other instances, we cut them back.

I think that is the intelligent way we should go at it, especially when we are dealing with what DOD and many military observers feel is our preeminence in the field of technology.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, will the Senator yield me 2 minutes?

Mr. McINTYRE. I yield the Senator 1 minute.

Mr. DOMINICK. I just want to congratulate the Senator from New Hampshire, the chairman of the R. & D. Subcommittee, on his efforts. I know what a tremendous job he has done on this measure. Time after time, he has been totally surrounded by papers, talking with witnesses, trying to find out what we were really doing in this R. & D. area. He has gone into extraordinary detail, in I think probably the most fruitful program we have had for a long time to delve into the enormous amount of money spent on research and development.

I merely wanted to congratulate the Senator and say I am happy to support his amendment.

Mr. McINTYRE. I thank the Senator for his support. I yield 1 minute to the distinguished Senator from New York.

Mr. BUCKLEY. Mr. President, the McIntyre amendment will provide for the restoration of the minimum funds required for the vitally important development of our future defense capabilities. It will mitigate to some small extent the damage to our defenses which will result from the sharp cuts in defense spending reflected in the defense appropriation bill now under consideration.

It should be kept in mind that the President's originally requested expenditure of $73.5 billion for fiscal year 1972—a level of expenditure which many experts considered to be dangerously low—has been cut by $3 billion, most of it out of those funds allocated for research, development and procurement.

In considering what is or is not an adequate rate of expenditure for various aspects of our national defense, we must focus on the magnitude of the threat which is now being posed by the rapid, purposeful expansion of the Soviet Union's conventional and strategic forces. I have had occasion earlier this year to describe the rate at which the Soviet Union is overtaking us in her strategic and naval capabilities. Just last Sunday, the New York City newspapers carried two items describing our relative decline in still other areas.

The first of these was a column which appeared in the New York Daily News under the title, "The Shock of Being Second in Air Power." I ask unanimous consent that the column be reprinted in full at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BUCKLEY. The second item, which appeared in the New York Times, contained the following quotation from the 1971–72 edition of the authoritative "Jane's Weapons Systems":

> Russia now has the initiative in weapons technology. Whereas for a long time it was assumed—with considerable justification—that the NATO countries had a clear lead in the development of sophisticated weapons, it is now clear that the U.S.S.R. has extinguished that lead and is outstripping the West.

I ask unanimous consent that the article from the Times be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. BUCKLEY. It would be well for Members of this body to ponder the implications of the statement quoted from "Jane's Weapons Systems." The case has been made in such diverse organs as the "International Institute for Strategic Studies," "Jane's Fighting Ships," and "Jane's All the World's Aircraft" that the United States has already fallen behind the Soviet Union in so many categories of strategic weaponry, that the credible threat of a successful Soviet preemptive first strike upon U.S. strategic forces is now within the realm of feasibility. It now appears that we are also losing—if we have not already lost—the technological base from which to restore the primacy of our forces and to equip them with the kind of modern weapons which will be required to defend our security, and to enable the President to implement our legitimate foreign policy objectives.

The defense appropriations bill currently before the Senate has gone far beyond mere cost-cutting economy measures. It is on the verge of destroying the vital technology base of our research and development community which is necessary to support any crash effort we may be required to make to modernize and expand our military forces on an emergency basis.

Our memory should not be so short as to forget that we had a year or two of warning after the initiation of hostilities in Europe in World War II before we were forced into war. This gave us barely enough time to develop a minimum defense establishment with which to enter the war. No one believes that we will be granted an equivalent period of time for mobilization should the Soviet Union seek to exploit its military advantage in the near future.

The aggregate amount of funds appropriated for R. & D. in the bill before the Senate are barely enough for a cost-of-living adjustment, and thus they provide no opportunity to improve our technology base at a time when the Soviet Union is actively improving its own. The restoration of funds provided for in the McIntyre amendment is the absolute minimum required by the elemental imperatives of national survival. I urge its adoption.

EXHIBIT 1

THE SHOCK OF BEING SECOND IN AIR POWER

(By Jerry Greene)

WASHINGTON, November 20—The late Gen. Hoyt Vandenberg had a word for it 20 years ago, a descriptive one-liner laying out the picture far better than a batch of statistics. And the little known tragedy of today is that we are rapidly nearing the same status once again.

"We have a shoestring, one-shot Air Force." Vandenberg told a House committee only a half-dozen years after the United States had fielded the mightest aerial combat armada in history.

A couple of days ago President Nixon signed a $21.3 billion defense authorization bill for fiscal 1972. The $70 billion-plus defense appropriations bill is now before the Senate.

The appropriations bill carries nearly $3 billion for procurement and modernization of aircraft and purchase of spare parts and support equipment. More than a billion dollars is allocated for 200 new planes.

Yet in the face of these enormous outlays, in relation to Russia and the Warsaw Pact nations, USAF is in a sorry state for manned aircraft, running very hard to stand still—in second place.

For all of the quibbling over shipment of F–4 Phantom jets to Israel, if this sale of 50 planes was ordered immediately the aircraft would have to be taken away from an American squadron.

As of today the Air Force has only 102 more F–4 fighter aircraft on order, 16 to be delivered this fiscal year, 75 in fiscal 1973, and 11 in fiscal 1974.

The 1972 budget, for a year nearly half gone already and the appropriation still not passed by Congress, provides for the purchase of 164 aircraft of all kinds for USAF, the smallest annual buy since 1935.

Since 1968, the procurement of aircraft for USAF has not been sufficiently large to replace losses from all causes, the largest coming from the Vietnam war.

At latest reports, USAF had about 6,000 combat aircraft. Russia had 10,000 such planes.

Such a comparison lends support to the comment by one of the top military planners who told us, "under the best possible assumptions our ability to win the air superiority battle are very chancy, a very high risk involved. It appears very doubtful that in Western Europe we could win air superiority in the early stages."

It might be noted in passing that not since the battle of El Alamein early in World War II have American ground forces been engaged in combat without complete air superiority. Those who have been under air attack can tell the curious that it does make a difference.

The basic reason for the sad state of USAF as regards aircraft is quite simple: Most of our latest models are quite old in either design or production or both—and it will be years, even if Congress is willing, before we get new ones.

But, apart from the ICBM and the ABM and the costly troubles of the C–5A cargo plane of the Air Force, we thought we'd take a look, after all of the propaganda of the annual appropriations time. What we found was neither pretty nor reassuring.

A LOOK AT MANNED PLANES

There can be no precise comparison of the Air Force of today and that of World War II, of course, because so much of the modern potency lies in the strategic arm, where the heavy element resides in the ICBM force. We are looking here at the flying end of the spectrum, the planes with pilots and air crews, bombers and fighters.

Some idea of the competition can be seen in the fact that in the last 15 years, Russia has produced at least 20 different fighter aircraft of which eight types are currently operational. During the same time the U.S. has built exactly one completely new fighter, the highly controversial F–111, destined far more for interdiction bombing than for air fighting.

The F–4 Phantom, now in the "E" model, was first delivered to USAF for service in 1964. This aging aircraft can handle what the

Russians have built up to the Mig–21 fighters, but we are told there would be grave difficulty with the newer Mig–23 and the SU–7.

The Mig–23s are coming off the Soviet assembly lines at the rate of three per month. And the Russians have two newer prototype fighters undergoing tests.

GOOD PLANES IN THE WORKS

We've got something that will match the Russians best, but not any time soon. That is the Air Force's F–15 and the Navy's F–14, the first purely air-to-air fighter planes in a generation. The Navy has three prototype F–14s flying tests. But under the best possible speed, the Air Force F–15 won't make its first flight until July 1972. The last research and development model isn't slated to come off the assembly lines until 1974.

Perhaps the arms limitation talks and President Nixon's peace initiatives will one day remove the necessity for any of this costly and deadly new stuff. Unhappily, nobody seems to have convinced the Russians that expenditures for modern combat aircraft are either unnecessary or undesirable for the present.

EXHIBIT 2

SOVIET SAID TO LEAD IN ADVANCED ARMS

LONDON, Nov. 20.—The Soviet Union now is ahead of the West in the development of highly sophisticated weapons, an authoritative British reference book said this week.

Moscow's advance was made possible to a great extent by costly duplication of effort by members of the North Atlantic Treaty Organization, according to Jane's Weapons Systems 1971–72. The 586-page volume, published in its third annual edition, is a companion reference work to Jane's Fighting Ships and Jane's All the World's Aircraft.

"Russia now has the initiative in weapons technology," the publishers said. "Whereas for a long time it was assumed—with considerable justification—that the NATO countries had a clear lead in the development of sophisticated weapons, it is now clear that the U.S.S.R. has extinguished that lead and is outstripping the West."

Recent advances in the Soviet early-warning radar system, Jane's said, plus "the modern Soviet Navy and the nature of its armament and equipment, and the existence of an operational antiballistic missile system around Moscow are evidence of the Soviet ability to take the initiative in weapon system development and deployment."

The PRESIDING OFFICER. Who yields time?

Mr. McINTYRE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. McINTYRE. I yield 1 minute to the Senator from Mississippi.

Mr. STENNIS. Mr. President, this is a matter of opinion. I would just like respectfully to disagree with the chairman and the ranking minority member of the committee here.

This subcommittee, chaired by the Senator from New Hampshire, has done much splendid work and brought to the Senate a real analysis of many projects that have saved millions and millions of dollars in the last 3 or 4 years. I respect their judgment and know about their hard work. I was not able to be present at the markup of this part of the bill, but I am convinced of the value of the Senator's amendment. It backs up the work the Senator did on the authorization.

I support the amendment.

Mr. McINTYRE. I thank the Senator from Mississippi, and I reserve the remainder of my time.

Mr. ELLENDER. Mr. President, I wish to say that the committee went over this program very carefully, and from a total of $7.9 billion, which was the amount that the House provided, we reduced the Army by $155.8 million, the Navy by $150.1 million, and Air Force by $171.1 million, and defense agencies $62.3 million, for a total of $539.3 million.

The committee, as I have stated, went over these research appropriations very carefully, and we felt, that we are cutting the various services, that is, the Army, the Navy, the Air Force, and the other defense agencies, this amount of money, aggregating $539.3 million, that the remainder, which was $7.4 billion, would be ample to carry on the work in the research field.

Of course, if the Senate should vote for this amendment, it would simply add to the bill about $93 million.

Mr. President, no one can make me believe that with three agencies spending as much as $7.9 billion there is not some waste. What we did before we made the cut was ask that they select which of the programs named on pages 176 and 177 of the committee report could stand the reductions. We deducted, as I have stated, the $539.3 million, and left it to them to state where the sums were to be taken.

Mr. President, it is a huge sum, $7.9 billion, that we are talking about now, and as I have stated, I just canot believe that with such a large sum of money being spent for research, there is not bound to be some duplication in it, and I feel confident that if the three services follow our prescription, they can do very well with the amount of money that we have provided.

As I have stated, it is left to them to make the cuts they desire among the various programs outlined in the report.

I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, in a way I am happy to see these amendments offered to increase appropriations. Our committee, responding to what we thought was the mood of the Senate and the mood of the country, tried to cut this budget as far as we could without hurting the military, and I think we did.

There is one provision we put in that I think would be very helpful. The House provided $600 million in transfer authority. We increased that to $900 million.

The PRESIDING OFFICER. The 5 minutes of the Senator from Louisiana have expired, and the Senator has no more remaining time.

Does the Senator from New Hampshire yield time to the Senator from North Dakota?

Mr. McINTYRE. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. McINTYRE. I yield 1 minute to the Senator from North Dakota.

Mr. YOUNG. We increased the transfer authority from $600 million to $900 million, and we believe that will help them take care of many of their problems.

Mr. McINTYRE. Mr. President, will the distinguished chairman of the committee yield to me, on my time, for a question?

Mr. ELLENDER. I yield.

Mr. McINTYRE. Can the Senator tell me why the proposed reduction was not $56 million, or one-half of this $112 million? What is the logic that stands behind the $112 million?

Mr. ELLENDER. It was our idea to accomplish a $500 million reduction, and that is how we obtained it. We asked the department to give us a list of the projects in which this cut would be made, and this list is printed on pages 176 and 177 of the report. That is how the amount was reached.

Mr. McINTYRE. What was the logic of the $500 million cut?

Mr. ELLENDER. As I said, we did our best to reduce the bill in various areas. We reduced in other areas than research and development, and we sought to fix an amount, a round figure, and the amount that was cut from this huge $7.9 billion—almost $8 billion—in research was only this $539 million.

Mr. McINTYRE. With the unobligated funds put against that, there is a net cut of $7.4 billion. Is that not true?

Mr. ELLENDER. It would be $7.4 billion that would be left, yes.

Mr. McINTYRE. So it amounts, actually, to a $600 million cut.

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

Mr. McINTYRE. I thank the Senator.

Mr. HATFIELD. Mr. President, at this time, I wish to call attention to some language in the House report on this bill, which I urge be implemented with all due dispatch.

I refer to the serious problem confronting the private ship repair industry today, as the smaller yards see a lesser and lesser percentage of Navy ship repair available for their yards.

I call attention to language in the House report on this bill on page 63 of the report. There, the House report states:

Likewise, it is equally important that a realistic portion of conversion and overhaul work be assigned to private shipyards to retain an industrial base for instant reaction in the event of a national crisis. As illustrated at the beginning of the Southeast Asia conflict, private shipyards were able to satisfy the increased demands of the Navy for the rapid activation of ships and vessels for combat operations.

Mr. President, I concur with these sentiments. In my opinion, and I am sure it would have the support of others of my colleagues here this evening, I think that a better distribution between nuclear and non nuclear repair work must be developed. The current plans penalize the smaller shipyards that are unable to bid on the large nuclear repair work.

The Navy has been able to point to a certain percentage, or a certain dollar figure in support of their contention that the private yards get a fair share of the dollar volume.

The awarding by the Navy of a few nuclear repair jobs to the big yards beefs up the dollar volume and the percentage figures, but many of the smaller yards are left out in the cold.

Mr. President, in my opinion, the House report would have been improved with the addition of the words "nonnuclear" to that sentence I referred to earlier. The phrase should have read, in

my opinion, "a realistic portion of nonnuclear conversion and overhaul."

Mr. President, it is essential to the defense posture of this country that we have viable private shipyards. They can be activated in short order in emergencies, and should be maintained at as high a level of productivity as possible. I am aware of arguments advanced in support of the Naval repair yards, but I think that much of what is offered in support of the Navy yards pertains and centers more on the larger repair work, and not on the smaller, nonnuclear work.

Employment in the smaller private repair yards is at a critically low level in many areas. In my State, the yards are operating at a fraction of their potential strength.

I will not go into great detail at this point regarding this provision in the House report. I hope that the Navy will see that the private yards receive an equitable share of the smaller, nonnuclear repair work. I intend to pursue this over the course of the next year, and I hope that when we consider the next military appropriations bill that I will have some good news in this area to report to my colleagues.

I ask unanimous consent that a letter from the Portland local of the International Association of Machinists and Aerospace Workers discussing the employment situation in Portland appear at this point in the RECORD.

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS,
Portland, Oreg., August 2, 1971.

Hon. MARK O. HATFIELD,
Senate Office Building,
Washington, D.C.

DEAR SIR: On behalf of members of Willamette Lodge No. 63, International Association of Machinists and Aerospace Workers, we would like to call to your attention a very serious problem confronting the ship repair industry and its several thousand skilled mechanics here in Portland.

Since World War II we have had an available manpower pool of approximately 3,000 workers for the shipyard industry. These people are not an itinerant group but are stable citizens of the community who contribute substantially to its overall economic and social development.

The impact of a serious reduction in ship repair activity has been much in evidence since early in 1970 where today only about 200 of our people are employed, and many of these on a part-time basis.

We are now in great danger of losing permanently such of the skill and know-how which has identified Portland as the most productive and least costly ship repair port on the Pacific Coast.

It is obvious that there has been a substantial decrease in the amount of work available, particularly on U.S. Navy vessels which has in the past been the source of the major portion of the work load for Portland.

We can understand how a reduction in the number of ships of the fleet should have an effect on all sectors of the industry, both government and private. However, we cannot understand and find it even more difficult to explain to our unemployed members why during this very difficult period the U.S. Navy is permitted to maintain their yards at near peak employment while the private sector stands idle.

The implementation of the fallacious "Home Port Rule" where under the guise of permitting the crews to be with their families at the vessel's home port while it is being repaired and then at great expense to the government transferring that vessel along with its crew, their families and personal belongings to another Navy yard location to make the repairs is unjust and is being manipulated by the Navy for their own benefit.

Also, the recent policy change of placing all repair work on noncombatant auxiliary type naval vessels in their own yards and removing these vessels from the historical practice of being repaired in private yards on a competitive bid basis will force a greater reduction in private yard employment and will lead to the closure of many.

If this happens, it will be a devastating blow to both the government and the taxpayer and certainly will be damaging to our defense mobilization base.

We want you to know that labor protests these changes vigorously and asks that you take whatever steps are necessary to force a discontinuance of these new policies.

Very truly yours,

JOHN D. PETROFF,
Secretary-Treasurer, Williamette Lodge No. 63 IAMAW.

THE AIR WAR IN NORTH VIETNAM

Mr. HUGHES. Mr. President, the current defense appropriations bill contains several billion dollars for continuing the air war in Indochina. According to the air war study by scholars at Cornell University, this cost is likely to level off at between $2 and $4 billion for the indefinite future. These are harsh and expensive facts.

Although there has been a great deal of discussion about the air campaigns in Laos and Cambodia, I have noticed very little talk about the continued air war against North Vietnam. In order to inform myself and now my colleagues, I wrote to Secretary Laird asking for more information on this aspect of the Indochina war.

Compared with the costs and severity of the air campaigns in neighboring areas, the continued attacks on North Vietnam are not very significant.

But at a time when we are being told that the war is winding down, the fact is that the air war in North Vietnam is being increased.

So far this year there have been 82 so-called protective reaction strikes against North Vietnam. This figure is more than four times the 20 such strikes reported for all of 1970.

In November alone, there have already been 13 such attacks. Admittedly, November is a month when infiltration normally increases and U.S. attacks along the trails can be expected to increase. Yet, the 13 strikes this month are a significant increase over 1970, when there were only two such strikes, over 1969, when there was one, and over 1968, when there were three.

No one can question the right of pilots who are attacked to defend themselves. But not all of these strikes have been in response to direct attacks, since the current rules of engagement give pilots the right to retaliate whenever antiaircraft radar "lock on" to their own planes.

The New York Times reported this change in the rules last January, citing instructions to pilots to take "more aggressive actions." One source described this more permissive atmosphere in this way: "The emphasis now is clearly to attack at the slightest hint of a threat. Unless the North Vietnamese keep their radar off, we'll see more cross-border operations."

That prediction was, of course, quite accurate.

The new mood of pilots was reflected in a story in the Baltimore Sun last May. Reporter Michael Parks said that Navy planes were "waiting to pounce on Communist antiaircraft facilities at the slightest sign of hostile action in the steadily escalating air war over Indochina." He quoted pilots who spoke of "beating the other guy to the draw" and "getting there first with the most." No doubt this situation has continued.

We should remember, Mr. President, that the North Vietnamese also have an inherent right of self-defense. After 4 years of devastating air attacks, they are naturally suspicious of any American plane flying over their territory.

What do their radars see? When we send an unarmed reconnaissance flight over North Vietnam, it is escorted by four fighter-bombers. Presumably, retaliation will occur whenever enemy radar locks on to any of those planes. It is thus highly misleading for our officials to claim that its strikes are in response to threats to unarmed aircraft.

Even these claims account for only 20 of the protective reaction strikes this year—and for only eight strikes in all of 1970.

Over 50 of the strikes so far this year were justified as retaliation for threats to aircraft on admittedly hostile missions in Laos and South Vietnam. Yet in 1970 there were only four such retaliations. These attacks may also include retaliation against enemy artillery and other military threats.

There is a third type of "protective reaction strike," one which hardly deserves that label. These are the "limited duration" strikes which the Pentagon says are attacks "upon a AAA/SAM threat that is not immediate."

Up until a year ago, when massive raids were launched in conjunction with the raid on the abandoned Son Tay prison camp, there had been seven such large scale attacks in the 2 years of official suspension of bombing of North Vietnam. In the past year alone, a larger number—eight—of such strikes have occurred. The most recent was on September 23, when 200 sorties were flown against oil depots as well as antiaircraft gun and missile sites. More recently, planes on November 7 carried out the largest raids since September 21. And on November 8, the retaliating planes carried bombs rather than rockets.

These large scale raids are the hardest to justify as protective reactions and the most damaging to our supposed understanding with the North Vietnamese. How can we expect them to reduce their own involvement in the war when we continue to threaten their homeland? It is wholly plausible, as Jack Anderson has reported, that the Joint Chiefs have prepared scenarios for a full-scale resumption of the bombing campaign against North Vietnam.

I do not question the figures which

have been supplied to me by the Defense Department. I am troubled, however, to read newspaper accounts which are at variance with these official statements. For example, a Baltimore Sun story on November 2 says that through September there had been 82 protective reaction strikes in 1971, while the official figure is 63. A New York Times story on September 24 says that the mission on that day was the 62d for September and that the number for August was 14. The official figures are 10 and seven, respectively. I earnestly hope that we have not been misled by some definitional quirk into believing that the figure is lower than it actually is.

The facts on this air war may not be as startling or frightening as those of the other air wars being waged in Indochina, but the consequences are still quite important.

As long as this bombing of North Vietnam continues, the war will continue. As long as we send pilots over that nation, we are risking their lives and adding to the list of prisoners of war.

And most distressing of all, as long as this war escalates as it has been doing in recent months, we will be signaling to friend and enemy alike that we intend to step up rather than end this tragic war.

Mr. President, in order that others may have the full facts on this issue, I ask unanimous consent to include in the RECORD a table showing the number of strikes over North Vietnam by month since November 1968.

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

PROTECTIVE REACTION STRIKES AGAINST NORTH VIETNAM

Month	January	February	March	April	May	June	July	August	September	October	November	December	Total
1968													
Type:													
I [1]	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])	1	17	18
II [3]	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])	2	5	7
III [4]	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])	0	0	0
Total	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])	3	22	25
1969													
I	3	0	3	8	6	7	2	1	1	2	0	0	33
II	1	1	8	3	15	12	0	1	0	0	1	0	42
III	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	4	1	11	11	21	19	2	2	1	2	1	0	75
1970													
I	1	3	0	1	1	1	1	1	0	0	0	0	8
II	1	0	1	0	0	0	0	0	1	0	1	0	4
III	0	0	2	1	4	0	0	0	0	0	1	0	8
Total	2	3	3	1	5	1	1	1	1	0	2	0	20
1971													
I	1	1	0	4	3	0	0	3	3	1	[5] 3		19
II	6	5	1	7	8	2	2	4	6	4	[5] 4		49
III	0	3	3	0	0	0	0	0	1	0	[5] 0		7
Total	7	9	4	11	11	2	2	7	10	5	[5] 7		75

[1] Immediate protective reaction for NVN reconnaissance missions. From 1968 to May 1970 there may be some few strikes that were delayed.
[2] Not applicable.
[3] Immediate protective reaction for aircraft in Laos/RVN near NVN border. There may be a very limited number of strikes generated in response to enemy action against U.S./Allied forces other than aircraft operations near the NVN border.
[4] Limited duration protective reaction strikes.
[5] Figures through Nov. 15.

SOME UNRESOLVED ISSUES IN CLOSE AIR SUPPORT

Mr. PROXMIRE. Mr. President, I want to talk briefly today about one set of issues related to the bill before us. During the past 5 years the Department of Defense has funded, at a cost of nearly $600 million, the development or procurement of three new close support aircraft—the A–X, the Harrier, and the Cheyenne. Each of these aircraft has been specifically designed to provide close-range, highly responsive aerial fire support to our combat troops in the field.

Everyone recognizes the fundamental importance of the close support mission. If a full-scale conventional conflict should ever erupt in Europe, we would have far more need for front-line close support against advancing enemy tanks than we would for interdiction strikes against enemy trucks in Poland.

But the importance of the close support mission is no grounds for buying three new close support aircraft. The different aircraft duplicate each other's functions, while costing far more than if one were produced in quantity. In fact, the more important the close support mission is, the greater the justification for buying a large number of the best available plane for the mission.

Accordingly, there has been a good deal of concern the past few years about the need to choose between our close support options. Up to now, however, there has been a lot of talk and very little action. And what action there has been appears to be action in the wrong direction—toward an expansion rather than reduction in the number of candidate systems. The A–X, the Harrier, and the Cheyenne all remain alive. And we are also considering future purchase of the A–7D, the Cobra/TOW, the King Cobra, and the Black Hawk.

I do not want to talk in depth today about my own proposed solution to the problem—which involves heavy primary reliance on the A–X, backed up by some 60 Harriers and a limited number of Cobra/TOW's. I have already explained its rationale in an MCPL report on close support and in testimony earlier this month to the Senate Armed Services Committee's Close Support Subcommittee. But I do want to talk about two specific points directly related to funds provided in this bill.

I. CHEYENNE HELICOPTER FUNDING

Earlier this year the Army sought to reprogram $61.3 million into Cheyenne helicopter research and development work, a purpose for which no funds were sought in the official Defense Department budget. While I recognized that funds were available for reprograming from the canceled Cheyenne production contract, I felt that it was highly inappropriate to rely on such back-door methods for the financing of controversial programs.

Accordingly, I wrote to the distinguished Senator from Louisiana (Mr. ELLENDER) as chairman of the Appropriations Committee and asked that he disapprove the reprograming request. I suggested then that any Cheyenne funding thought necessary by the Appropriations Committee could be provided instead through a committee amendment to the defense appropriations bill. Such an approach would not hurt the Cheyenne program, I noted, while it would preserve the integrity of the normal budget process and allow Cheyenne critics a chance to challenge further funding on the floor.

COOPERATION APPRECIATED

I would like to thank my friend from Louisiana (Mr. ELLENDER) for his gracious and cooperative response to my request. He pointed out to me that $35 million of the $61.3 million requested by the Army represented funds due Lockheed in settlement of litigation over the canceled production contract. I agreed with him that there was no overriding reason why this money could not be reprogramed as the Army sought, with the balance of the request being considered during action on this bill. As a result of that consideration, the bill now contains $9.3 million for continued Cheyenne research and development work. I deeply appreciate the assistance of the Senator from Louisiana (Mr. ELLENDER) in reaching this accommodation.

Because of my personal opposition to the Cheyenne program and my belief that it should be canceled, I have considered offering at this time an amendment to strike the $9.3 million in the bill

for the program. I will not do so, however, for the following reasons.

First, the Appropriations Committee, in reporting out the bill, made clear that it, too, wants a choice soon between the AX and the Cheyenne. Let me quote from the committee report:

It is the view of the committee that the development of the Cheyenne should be continued in order that it may be fully evaluated along with the A-X light attack aircraft to determine *which* should be produced for the close air support mission. *It is hoped that this decision will be rejected in the budget for fiscal year 1973.*

Second, the Senate Armed Services Committee is itself in the process of concluding hearings on the close support question, hearings which should enable it to make its own recommendations for a solution to present problems sometime in the next month or two.

With both these important committees committed to a prompt resolution of these problems, it would not be appropriate for me to preempt them at this time. I trust that constructive action will be forthcoming soon. And I remain convinced that the advantages of the A–X over the Cheyenne will be plainly perceived when the decision is made.

II. A–7D ADVANCE PRODUCTION FUNDING

Let me turn my attention now to a second specific subject—the $5.8 million in advance procurement funds for a fiscal 1973 A–7D buy which were contained in the bill as reported by the House, but which were deleted by the Senate Appropriations Committee. I strongly support the Senate committee's action and believe it important to state precisely why.

First, we have no need for additional A–7D's in the primary interdiction bombing role for which they have always been purchased. Air Force and Navy purchases of different A–7 models have already totaled almost 1,200 for fiscal years 1967 through 1972. And Secretary Laird stated in testimony to Congress last March that the 97 A–7D's in the fiscal 1972 budget "will complete our planned procurement of A–7D's." It should also be noted that no advance procurement funds would be needed if the Defense Department changed its mind and decided that more A–7D's were in order. In that event the Department could stretch out this year's buy to permit a smoother production rate through next year, thereby saving money overall for the 2-year period and obviating the need for advance procurement funds this year.

Second, there is no reason to buy more A–7D's and keep the line open to provide a hedge against difficulties in the A–X program. I doubt to begin with whether such a hedge is needed. But even if it is, we already have plenty of available A–7D's for use in a fly-off with the A–X. And if it were decided to continue with the A–7D after that fly-off, it would cost only $20 million to reopen the A–7D line, a cost which should be contrasted with the $70 million cost of keeping it open through next fiscal year. In fact, we are already planning to keep open through fiscal 1976 the A–7E line on which a very similar plane is turned out. That is why the costs of reopening the A–7D line would be so low.

I believe, therefore, that there is no sound defense policy consideration which calls for the appropriation of A–7D advance procurement funds at this time. And the defense budget is not the proper vehicle for boosting profits and employment opportunities in selected areas of the country. I sincerely hope, therefore, that the conference committee will support the Senate's action on these advancement procurement funds.

Mr. EAGLETON. Mr. President, again this year, the Army's "dream tank," which long ago turned into a taxpayer's nightmare, has squeaked through, alive if not well.

The Senate Appropriations Committee has decided not to follow the lead of the House, which deleted all funds requested by the administration—$86.6 million—for the MBT–70/XM–803 program and recommended that $20 million be spent in search of ways to improve the current generation of tanks. The committee, to quote its report, did "not approve the continuation of the XM803 program, nor has it recommended its termination." Instead, the Senate Appropriations Committee has requested the Secretary of Defense to review the XM803 program, something that has been done before, apparently without benefit.

In each of the last 3 years the MBT–70/XM–803 has come under fire. In 1969 the GAO reported that the tank program was in need of serious review. Secretary Packard assured Congress that such a review would be conducted. At the end of the "review" Secretary Packard promised a cost reduction of $250,000 per tank, from $850,000 to $600,000.

However, by early 1971 costs were again soaring.

Earlier this year, the House Armed Services Committee revealed, and the Senate Armed Services Committee confirmed, that the MBT–70/XM803 would cost over $1.1 million per unit, not $600,000. And although the MBT–70/XM803 program was cut from the $86.6 to $62.8 million in authorization, this rolling blunderbuss survived an effort by the House Armed Services Committee to bring it to a halt.

As the House Armed Services Committee stated earlier this year:

Recurring expressions of concern, both within the Army and by independent external observers, that the tank is nearing the end of its era of combat capability also influenced the Committee in its decision. New anti-tank weapons, including missiles, have brought about this obsolescence; and Soviet technical capabilities would permit them to field such anti-tank weapons before the MBT–70, or any alternative tank, has been in the force structure very long. In this connection, the Committee notes that both Russia and Germany appear to have recognized the diminishing utility of the heavy tanks and are placing more and more emphasis on light, hard-hitting, anti-tank vehicles and weapons. Although the USSR will probably continue to use its medium tank, its heavy tank is no longer in production, and is being gradually phased out of inventory. In any event, the U.S. M60A1 and the M60A1E2 are qualitatively equal to or better than any USSR tank now in the field or anticipated in the foreseeable future.

Less than 2 weeks ago, the House Appropriations Committee, after intensive study of the MBT–70/XM–803 program by the members and committee staff, recommended that all funds for the program be deleted, and that $20 million be added to R. & D. for the purpose of initiating a prototype program to provide a reasonably priced tank for the 1970's. In its report, the House Appropriations Committee stated of the tank:

The Committee had its Surveys and Investigations staff conduct a thorough study of the main battle tank program during 1971. It was found that the Army simply was unable to support its cost estimates for the austere version of the tank and that it would in all probability cost between $850,000 to over $1,000,000 each depending upon whether or not total program acquisition costs are used in computing the unit cost. The Committee is firmly convinced that no tank is worth that much money, particularly when Army witnesses advise that the less costly M60A1 is as good or better in some respects than deployed Soviet battle tanks. Taking into consideration the size of the existing Soviet armor threat in Europe and the advertised capabilities of the MBT–70/XM803, it is highly doubtful that the United States could devote the necessary resources to acquire at such a high cost an MBT–70/XM803 in sufficient numbers to satisfy the requirements of the Army in meeting the Soviet tank threat.

The Committee continues to feel that the MBT–70/XM803 is unnecessarily complex, excessively sophisticated, and too expensive, and that the Army, by eliminating or modifying relatively minor features, has failed to satisfy the recommendation in the committee report on the fiscal year 1970 bill. For these reasons the Committee has recommended that all funds for the MBT–70/XM803 be deleted from the fiscal year 1972 budget and the program terminated. In its stead, the Committee has recommended that $20,000,000 be added to the Army R.D.T. & E. budget for the purpose of initiating a prototype program to build a limited number of tanks of two different designs for test and evaluation. While the Committee does not consider the austere MBT–70/XM803 to be a prototype candidate, that tank does have certain design features such as spaced armor, low silhouette, turret stabilization, and a gun capable of firing a kinetic energy round that should be incorporated in the prototype. The use of Daimler-Benz engine, which was developed as a back-up engine during the joint development program with the Germans, should also be seriously considered for one of the prototype designs.

On November 16, 1971, the able chairman of the House Appropriations Committee, Mr. MAHON, echoed what I have been saying for several years. He stated:

It is felt that to continue the main battle tank program would be to throw good money after bad . . . The proposed XM–803 is unnecessarily complex, excessively sophisticated, and too expensive.

Chairman MAHON is not against a strong defense. Neither is Congressman STRATTON, who has done an outstanding job of bringing the MBT–70/XM–803 program under the scrutiny of the House Armed Services Committee. Neither am I. No responsible Member of Congress wants a weak America.

But for far too long, a "strong defense" has been equated in too many minds with the most sophisticated and costly weapons systems that money can buy. And that simply is not a valid calculation.

To drain our treasury, to spend ourselves into bankruptcy, in pursuit of super and super-expensive weapons which other countries do not feel obligated to

have, has been the hallmark of defense spending since the 1960's. In pursuit of the "blockbuster," we have overlooked functional and less expensive weapons.

Many of us in Congress have been saying during the last 3 years that more costly and technologically fancy weapons do not necessarily add to our security—that, in fact, wasteful military spending can seriously impair our overall ability to defend ourselves.

The House Committee has already recognized this and the Senate Committee seems to be on the verge of doing so. Granted, much more must be done. But by deleting funds for the MBT–70/XM–803 program, the House Committee has taken an important step toward reestablishing sanity to our search for security. I urge the Senate to accept the House recommendation in conference.

Mr. HATFIELD. Mr. President, Monday's Washington Post should be mandatory reading for those who are fond of talking about the war in Vietnam that is "winding down." On page one we read:

Thousands of South Vietnamese troops, spearheaded by an armored column, pushed north from Highway 7 in eastern Cambodia today in the start of a new offensive . . . Scores of U.S. helicopters and advisers moved into Tayninh to support the operation.

In an adjoining article about the war in Cambodia titled, "Bloody Little Battle" we read this description of the villages on the outskirts of Phnom Penh:

The Communists are massed in the fields and bushes, attracting Cambodian artillery, South Vietnamese bombers, and American helicopter gunships. Along the roads, there are hundreds of refugee families, in carts drawn by cows, taking their possessions to a nearby village or pagoda, only to move again when that refuge is threatened . . . Last weekend the Communists seized the railroad station town of Toul Leap, about three miles from here, wiping one whole Cambodian battalion in the process. The bombers and gunships went to work and the enemy has been run out. But there is no more town.

On the editorial page in a column written from Svayrieng, Cambodia, we read:

Meanwhile, refugees at a camp near here, whose homes were destroyed by U.S. bombing and allied artillery fire, exist with a pitiful shortage of food, shelter, clothing. American funds must be reserved, officials explain, for the military and essential economic programs which other countries won't provide . . . Thus Cambodia has found its place in the Southeast Asian dilemma. It looks to the United States to be able to survive, and about all the United States knows how to do is help speed destruction. Having become involved this far, America can't decently tell the Cambodians to forget it and lose. But neither can either country gain from a bloodier war.

Then, back to page 1, we read:

Meanwhile, in Saigon, the U.S. Command announced one of the deepest bombing raids this year inside North Vietnam, against an anti-aircraft gun site near Vinh . . . It was the 80th "protective reaction" strike by U.S. planes over North Vietnam this year, and the fifth within the last eight days . . . U.S. Air Force and Navy fighter-bombers made their 79th "protective reaction" strike of 1971 inside North Vietnam earlier Sunday." The same article states, "U.S. headquarters also reported three more B–52 raids in the northwest corner of South Vietnam along the Laos Border . . . Saigon headquarters reported a Vietcong mortar shelling early Monday of Hoian . . . In the same area, Saigon headquarters said, an enemy unit shelled and attacked a regional force position Monday morning near the district town of Ducduc . . . Fresh fighting was also reported in the Central Highlands.

Perhaps Gary Wills' column in the same paper sums it all up best:

Vietnam has always been the invisible war. We were in it before we knew we were in. And we have forgotten it before we are out. There is a feeling that if the war is not an issue, it is nothing; it does not exist . . . So we hear a great deal about withdrawals, each time there are some, while our bombing is increased; our "support troops" keep the Thieu regime in office, its own troops in the field; and "Vietnamization" means continuation of the war until we can entirely forget it—and then all the pretensions on which it has been prolonged can collapse unnoticed. For the aim of the war is no longer to win it, but to forget it.

It is an indictment of our moral insensitivity for this body to vote more money for continuing the war, while in the same breath we talk about the war's end—if we talk about the war at all.

It is worth noting just how long we have been winding down this war. The Paris talks, begun ostensibly to bring the war to a close, first met on May 13, 1968. That was almost 3½ years ago—we have been in the process of "winding the war down" or ending the war for that long. The war had already been going on with substantial American involvement since 1965.

As one who fought in World War II, I cannot help but remember that it took about 3½ years for that war, against Germany and Japan, to begin, escalate, and totally cease. In other words, by the end of the year, we will have been in the process of just ending this war for about as long as it took us to fight all of World War II, and with no real end to the fighting and bloodshed in sight.

Just how is this war winding down? First of all, in terms of the U.S. troops actually there on the ground. This we all know. The total number of troops in Vietnam has been reduced by about 67 percent. Furthermore, in 1967, U.S. troops made up 34 percent of the total allied troops there. Presently, they comprise about 10.6 percent of those forces. There has been a corresponding drop in the percentage of Americans killed in action among all those of the allied forces who die. Through 1971 thus far, U.S. soldiers have comprised about 6 percent of those allied forces killed in action, compared to about 38 percent in 1967. But that is one of the few dramatic ways in which the ugly statistics of bloodshed and death in Indochina are changing.

Consider, for example, the rate of overall casualties in Indochina. In 1967, there were about 24,000 to 25,000 deaths from hostile action among allied forces; these figures include estimates of allied deaths in Laos. At the very peak of the war in 1968, there were over 45,000 allied deaths. If we look at the average rate of overall total casualties among the South Vietnamese, Americans, and other allies, we find that from 1966 through this year, that average has been about 30,400 deaths per year. Now, when we look at the overall allied casualty rate for this year, and assume that will continue to be about the same, we find that there will be about 31,590 total deaths from hostile action in 1971—a figure higher than the level in 1967, when our troop strength was growing to its peak level. Of course, the current level of overall casualties among the allied forces has reduced from that during the Laotian invasion, earlier this year, and from the Cambodian invasion last year. But taken on the whole, and put into perspective since 1966, we find that overall military deaths from the fighting in Indochina are continuing this year at an alarming level, only slightly reduced from last year. The substantial reduction of American deaths has not been matched by any similar reduction in the Vietnamese who are dying in this war. And the official statistics reporting enemy deaths would lead us to believe that at our present rate, we will kill about 20 percent more enemy soldiers this year than last. My point is that as far as the Vietnamese are concerned, this war is not winding down.

Civilian casualties further reflect the reality of a war whose destruction and suffering for the people of Indochina knows no end. Precise figures and trends are not known. The Pentagon has never seen the need to make the kind of estimates of civilians killed in the way as they have for the number of enemy soldiers who die, and are computed each week. The only estimates that we do have come from sources outside of the executive branch, such as the Senate Subcommittee on Refugees. The evidence suggests that as the overall bomb tonnage over South Vietnam has decreased in the past 2 years, civilian casualties may be reduced from the peak of the war in 1968. Yet, as the bombing has begun in earnest in Cambodia since early 1970 and has significantly intensified in Laos since the beginning of 1969, civilian casualties in those countries have become significantly intensified. Estimates placed the number of refugees in Laos during June of this year at 315,000, or more than 10 percent of the entire population of the country. This amounts to an increase of 240 percent since 1969. And in Cambodia, the refugee toll since April 1970 is believed to be about 1.5 million people.

When the total tragic toll of this war's continuing human cost is taken, we find that the suffering for the people of Indochina is not winding down at all. In fact, it can be argued that the overall suffering of the war—those killed, wounded, and made refugees—has actually been rising this year compared to last. During the time that we have been "ending the war," the human suffering it is causing, while somewhat less intense within South Vietnam, has been tragically magnified throughout Laos and Cambodia in ways unknown during the Johnson years of the war.

The human toll of the war's suffering has always been most heavily inflicted by the bombs that have fallen on Indochina.

By the end of this year, we will have dropped 6 million tons of bombs on Indochina, an area about the size of Texas. That is 3 times the total tonnage used in World War II. Nearly half of this total will have been dropped during the first 3 years of this administration. In fact, the 2.9 million tons dropped since the beginning of 1969 through August of this year is more than the total tonnage dropped during the last 3 years of the Johnson administration, when the bombing of North Vietnam was being undertaken. That 2.9 million tons also exceeds the combined total of the bombing during World War II and the Korean war, and is only slightly less than the 3.2 million tons dropped during the 4 years of President Johnson's bombing policies.

It has been pointed out that the total of bombs dropped over Indochina has decreased in the past 2 years, and this is true. Primarily this reflects the substantial decrease in the level of bombing in South Vietnam proper, as well as the cessation of bombing over North Vietnam at the end of 1968.

What is far more revealing, however, is the way in which new air war has been opened in Cambodia, and the ongoing air war has been greatly intensified in Laos.

During the height of the bombing of North Vietnam, our bombs were falling at the rate of 200,000 tons per year. It is thought that during the peak there were at least 1,000 civilian casualties per week.

The effects of that bombing campaign were well documented by authors and members of the press who were allowed to visit North Vietnam during that time. And as the Pentagon papers reveal, the "Rolling Thunder" was a carefully orchestrated attempt to bring North Vietnam to their knees by our bombing.

Revealing comparisons between that bombing and our present level of bombing can be made. The bombing in Laos, for instance, increased by 2½ times in 1969 over 1968, and has remained since then about 44,000 tons per year—more than twice the level of the bombing of North Vietnam. About 90,000 tons of bombs will fall on Cambodia this year, in that country's relatively young air war. And in South Vietnam, the one place where our bombing has decreased under the present administration, we will drop about 270,000 tons this year—still higher than the peak of our bombing of North Vietnam.

We could phase out the U.S. bases for our planes within South Vietnam next year. But our planes based in Thailand, on carriers, and at Pacific bases will remain for the air war that will continue for years into the future, if there is no political settlement of this war.

It cannot be seriously contended that the air war is winding down or ending. There are overall decreases in total tonnage dropped, but of far greater consequence for those who live in Indochina is that the air war has escalated geographically over new areas previously spared from our bombs. The human consequences are revealed in thousands of new casualties and refugees from those same locations.

We have been winding down the rhetoric about this war; it has been talked about so little lately that you would think it is over. But little else about this tragedy is being wound down or ended.

The Mansfield amendment which has now become law declares it to be the policy of the United States to withdraw all of its forces and end all military operations at the earliest practicable date. In implementing that policy, it calls upon the President to set that date certain.

The administration, however, has announced that they intend to disregard the Mansfield amendment which has become the law of the land.

We have heard about this war winding down for long enough. And the people of Indochina have suffered under this perpetually "ending" war for long enough.

By voting for the defense appropriations bill, we are all voting to continue the war that we are trying so hard to forget. Therefore, I shall vote against the bill, and urge other Senators to do likewise until the President announces the date for our total military withdrawal from Indochina.

Let us vote to stop this tragedy and save ourselves and our country.

Mr. President, I ask unanimous consent that four articles published in the Washington Post on Monday, November 22, to which I have referred, appear at this point in the RECORD.

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

[From the Washington Post, Nov. 22, 1971]

SAIGON LAUNCHES NEW OFFENSIVE INSIDE CAMBODIA

UNITED STATES TAKES SUPPORT ROLE IN OPERATION

SAIGON, November 22 (Monday).—Thousands of South Vietnamese troops, spearheaded by an armored column, pushed north from Highway 7 in eastern Cambodia today in the start of a new offensive.

U.S. advisers said the drive is aimed at raiding staging areas from which elements of three North Vietnamese divisions could attack South Vietnamese bases on the highway, about 90 miles northwest of Saigon.

South Vietnamese field commanders said they anticipated that the new operation would also relieve enemy pressure on Phnom Penh and on the 20,000-man Cambodian government force battling Communist-led troops on the northeastern front in Cambodia.

Initial reports said that more than 5,000 South Vietnamese soldiers were involved in the opening thrust. The number was expected to increase.

There were no immediate reports of significant ground contact, but South Vietnamese air strikes killed 40 enemy soldiers west of the town of Krek, officers in the field said.

Officers said the operation could last up to 30 days, depending on what the South Vietnamese find.

Scores of U.S. helicopters and advisers moved into Tayninh to support the operation. Tayninh, 55 miles northwest of Saigon, is the forward command post for South Vietnamese operations into eastern Cambodia.

Communist-led forces who have fought their way to within 10 miles of the Cambodian capital are known to be resupplied from bases in the border region.

The South Vietnamese field commanders felt that the Communist-led forces would have to divert some men from fighting elsewhere in Cambodia to protect their base camps and storage depots in the border region north of Highway 7.

Meanwhile, in Saigon, the U.S. Command announced one of the deepest bombing raids this year inside North Vietnam, against an antiaircraft gun site near Vinh.

The command said four Navy A–7 Corsairs based on a carrier in the Tonkin Gulf struck at the site Sunday afternoon after North Vietnamese guns fired on an unarmed Navy reconnaissance plane.

It was the 80th "protective reaction" strike by U.S. planes over North Vietnam this year, and the fifth within the last eight days.

The command said that results of the strike were not known and that there was no damage to the four attack bombers or the reconnaissance plane, which apparently was on a photo mission over North Vietnam.

Vinh, a major North Vietnamese city about 145 miles north of the Demilitarized Zone, is at the hub of five supply routes. The site was eight miles west of the coast, the command said.

U.S. headquarters also reported three more B–52 raids in the northwest corner of South Vietnam along the Laos border.

South Vietnamese headquarters said its propeller-driven Skyraiders attacked North Vietnamese positions near Chrum in eastern Cambodia and pilots claimed 40 North Vietnamese killed. The claim was not confirmed by a body count on the ground.

Saigon headquarters reported a Vietcong mortar shelling early Monday of Hoian, a coastal province capital 15 miles south of Danang. The shelling hit a U.S. compound, wounding five American servicemen, and also damaged South Vietnamese installations, wounding four militiamen and four civilians.

In the same area, Saigon headquarters said, an enemy unit shelled and attacked a regional force position Monday morning near the district town of Ducduc, about 25 miles south of Danang. Headquarters said the attack was repelled.

Fresh fighting also was reported in the Central Highlands. Fields reports said a battalion of North Vietnamese attacked the Pleidjereng South Vietnamese ranger camp, 25 miles west of Pleiku and 12 miles from the Cambodian border, on Sunday.

There was no immediate word on casualties. It was the second attack on the camp in three days.

U.S. Air Force and Navy fighter-bombers made their 79th "protective reaction" strike of 1971 inside North Vietnam earlier Sunday. Pilots said they knocked out two enemy antiaircraft 80 miles north of the DMZ and near the North Vietnam-Laos border when the site fired on an American bomber on a mission over the Ho Chi Minh Trail.

[From the Washington Post, Nov. 22, 1971]

BLOODY LITTLE BATTLE

NIGHT FIGHT NEAR PHNOM PENH LEAVES THE QUESTION: WHY?

(By Peter Osnos)

PREY KHIEU, CAMBODIA, November 21.—For the better part of five hours early today, Cambodian soldiers withstood a determined enemy ground attack atop this bump in the rice paddies, just 15 miles from the center of Phnom Penh.

When it ended at sunrise, 13 Cambodians were dead, including three soldiers' wives and one child. Another 23 people were wounded. Sime of these were women and children, too.

The enemy left two bodies behind. One, found near the Cambodians' skimpy command post, was wearing only shorts and a skull cap. He carried a grenade bag and had made himself darker with charcoal. He looked Vietnamese.

It was a tough and bloody little battle that proved nothing. But it was close enough to the capital to be considered part of the enemy's dramatically stepped-up activity in

the area, and for that reason it was significant.

American officials maintain that the attacks are merely harassment and not intended to culminate in a drive on Phnom Penh. That remains to be seen. For the moment, the city itself seems as quiet and lovely as always, except for the sound of constant artillery fire at night.

But in the villages on the outskirts to the northwest, there is considerable fear. The Communists are massed in the fields and bushes, attracting Cambodian artillery, South Vietnamese bombers and American helicopter gunships.

Along the roads, there are hundreds of refugee families, in carts drawn by cows, taking their possessions to a nearby village or pagoda, only to move again when that refuge is threatened.

The family of 48-year-old Nop Sim, his wife, children and grandchildren, fled from their home a month ago and came to a pagoda called Angtaloenk because Vietcong and Khmer Rouge were gathering in the vicinity.

Today, because of the fighting at Prey Khieu, a mile or so away, they were preparing to go again, taking Nop Sim's sister along also because now her village is endangered too.

At midday, A-37 bombers were making strike after strike just a few hundred yards from the bumpy road where the farmers and some of the weary defenders of Prey Khieu were making their way to safety.

The company atop the knoll had been there for a month, with only a few light contacts. Then at 1:30 a.m. this morning the enemy struck with rocket and mortar fire and, at practically the same time, moved in on the ground.

In one corner of the Cambodian outpost the attackers killed three soldiers and one wife. From the way the dead looked, they were hit pointblank. A shallow trench had been dug where the enemy fortified the tiny stronghold they had taken.

Ut Seng Ean, 35, commander of the company at Prey Khieu, said that at the height of the fighting there were 40 Communists, while his force was 120 men strong. The Cambodians must have held their own, because the enemy withdrew. But the company was tired so replacements were brought in.

What is most distinctive about the Cambodian position is how weak it looks. Although they had been there for weeks, the soldiers had built no bunkers and relied on lean-tos made of palm leaves. The new company seemed content to leave things that way.

There is every likelihood that the Communists will make another try for the knoll, and probably, if they risked enough men, could take it. But then what? The hill is high ground, commanding a view as far as Phnom Penh, but is also a prime target for bombers and gunships.

Last weekend the Communists seized the railroad station town of Toul Leap, about three miles from here, wiping out a whole Cambodian battalion in the process. The bombers and gunships went to work and the enemy has been run out. But there is no more town.

At Toul Leap, the Communist surrounded the Cambodian battalion's camp in one section of the town and allowed most of the villagers to flee. Fighting went on for four days, and when it was over fewer than 10 of the Cambodians made it out. The rest were killed, captured, or wounded.

The Cambodians counterattacked with a brigade led by Lon Non, the mercurial brother of Prime Minister Lon Nol. By the standards of the Cambodian war, air support was very heavy.

It took four days to rout the enemy, and when the Cambodians finally made their way to the town they met very little resistance. The official government news agency declared that their soldiers' victory was "astonishing."

This morning, as if to prove that they are still around, the Communists fired about 20 mortar rounds into the rubble of the town and killed three Cambodians.

For the enemy, taking Toul Leap accomplished little more than would overrunning Prey Khieu—at least the town had food. The Communist must have a reason for what they are doing, the Cambodians say, but nobody has a clue what it is and that is what makes them especially nervous.

In the meantime, all that is known for sure is that the enemy is hitting closer and closer to the capital.

An Invisible War Is Soon Forgotten

(By Garry Wills)

Vietnam has always been the invisible war. We were in it before we knew we were in. And we have forgotten it before we are out. There is a feeling that if the war is not an issue, it is nothing; it does not exist. Even its critics, among the politicians, are afraid to run hard against it, for fear they will base their campaign on a non-existent thing. And the administration, of course, keeps taking credit for having ended the war because it is in the process of ending it.

So we hear a great deal about withdrawals, each time there are some, while our bombing is increased; our "support troops" keep the Thieu regime in office, its own troops in the field; and "Vietnamization" means continuation of the war until we can entirely forget it—and then all the pretensions on which it has been prolonged can collapse unnoticed.

For the aim of the war is no longer to win it, but to forget it. We cannot withdraw entirely without remembering the pesty thing. If we phase out, the same thing will, in time, take place that would have followed on a complete withdrawal two years ago. But "phasing out" lets us avoid looking at what is happening. That is worth a great deal to us, and we are paying a great deal for it, in money and lives (our own and others').

The worst danger is that our prolongation of "phase-out," to achieve forgetfulness, will lead to an open-ended minimal "presence" in Vietnam, with a residual force just sufficient to keep the Vietnamese fighting each other for another decade. It would be our last cruel gift to this country we have absentmindedly ravaged so long, and it would guarantee a hatred for us quite earned, a hatred felt by all sides (as already it is felt in some measure, by followers of a Diem or Ky no less than by partisans of the Vietcong).

Our rulers do not tend to think in terms of "costs" to others. But even they see one danger in the "residual force" solution—the danger of a rear-guard massacre, once our residual troops reach a dangerously exposed minimum.

It is on this subject that the China and Moscow visits can be most useful. Our President, like the other rulers, must deny that the fate of Saigon and Hanoi will be settled in the absence of either regime's representatives. And it is true that direct settlement of the war cannot be conducted at such meetings. But our cordial relations with such "big brothers" of the Communist world must give Hanoi pause at anything so offensive as a slaughter of remaining Americans.

On the other hand, pressure can be put on us through this network of forces making for coexistence to take our tempting exposed last targets out for good and all. In this way, the politics of these visits may betray Mr. Nixon into statesmanship, into a real ending of the war, not mere hypnotic lullings of our consciousness that it goes on.

He can probably, even in those conditions (of total withdrawal), conclude the hidden war with a disguised defeat, getting credit for doing now what he could have done earlier, under better terms, without the intervening loss of life. The Vice President, with his customary candor, has stated the real goal: "It will be Nixon's peace, and his alone." Well, all right—let it be his. But let it be.

Cambodia Finds Its Place in the Asian Dilemma

(By Flora Lewis)

Svayrieng, Cambodia.—This key junction on the major road between Pnom Penh and Saigon is now firmly in Cambodian hands, and the road is—usually—open. But some 15 miles back toward Pnom Penh, at Neak Leung, whole blocks lie in ruins. A devastating Communist raid took Neak Leung by surprise not long ago, and most of the people fled.

North and northwest of here, vast areas of Cambodia are denied to government control, about half of the national territory, although it would be too much to say that the region is all under Communist control.

Every bridge along the canal-laced road from Pnom Penh has been blown at least once. Almost every bridge in Cambodia has been blown, many replaced by Bailey bridges donated by Britain. Here, unlike in Laos and even much of Vietnam, it is a war of destruction and disruption rather than selective combat.

It has led Cambodian nationalists to believe that the North Vietnamese don't just want to impose a sympathetic government in this country, but want to subjugate it. Now whole platoons of soldiers, living with their wives and babies in tiny pup tents made of grass and thatch, guard the vital bridges.

In the circumstances, it may be surprising to hear that Cambodian and American officials alike are pleased with the military situation. It is, as they point out, much better than might have been expected. A year and a half after the fighting started, they no longer veil the dire realities of Cambodia's wildly risky plunge into Vietnam's war.

Now it is conceded that the Vietnamese could probably have taken Pnom Penh at any time they wished in the summer of 1970, but didn't wish to pay the price because they couldn't have mustered enough Cambodian supporters for a victory parade. They were modest, or shrewd, enough to choose against a show of purely Vietnamese Communist strength in the Khmer capital.

The intervening months have been used to multiply the Cambodian army almost 10-fold, provide some equipment and training and establish a defense organization for the first time. The Communists have also used the time, however, to recruit supporters.

Official figures, which must be considered decidely conservative, show the difference. In the first months of the war, Cambodian officials spoke of the local pro-Communist force, the Khmer Rouge, as negligible. No more than 2,000, they said. They still call the Khmer Rouge negligible. Only 15,000, they say, though that is a 750 per cent growth in something over a year.

But there is a certain stabilization of the front. Neither side has made, nor apparently expects to make, much change in the areas of control for the visible future.

This is really a Nixon doctrine war. The Cambodians and the Vietnamese are fighting. The United States and, on the other side, Russia and China, are providing the wherewithal. Since the Nixon doctrine remains imprecise, however, there are naturally arguments among both Americans and Cambodians about how it should be applied.

Cambodian officials, with support from American military officers, think the United States should Americanize the war at least in the technical sense, with helicopters and

tanks and heavy artillery, if not with manpower. The Cambodian plea, which I heard repeatedly from Premier Lon Nol, his partner Deputy Premier Sirik Matak, Lon Nol's rambunctious and lively younger brother Lt. Col. Lon Non, down through the chain of command to the young captain who reported on the tactical situation at Svayrieng, was this: If you won't give us as much as South Vietnam, a more populous country, at least you should give us half as much.

Brig. Gen. Theodore Mataxis, who heads the U.S. "military equipment delivery team" here, thinks Cambodia should have more of a chance to fight the American way, with more American support. His Pnom Penh staff, after much argument, was recently limited to an expanded complement of 150 Americans, but he has another 75 working on military help to Cambodia under him in Saigon.

A U.S. mission from Pacific command headquarters recently recommended another 50 people to handle the flow of supplies. U.S. Ambassador Emory Swank, slipping but still trying to cling to the "low-profit" policy in this war, has proposed that the United States hire under contract other nationals—South Koreans, Filipinos, Thais—to do the job more discreetly.

Essentially, Swank and his advisers rely on Congress to limit the funds that would be needed for a bigger American role with men or major weapons. They don't admit it, but congressional truculence is their main defense in resisting the insistent pressures to "really support Cambodia."

Meanwhile, refugees at a camp near here, whose homes were destroyed by U.S. bombing and allied artillery fire, exist with a pitiful shortage of food, shelter, clothing. American funds must be reserved, officials explain, for the military and essential economic programs which other countries won't provide. Humanitarian needs are left to those countries, but they have too many other requests to notice.

Thus Cambodia has found its place in the Southeast Asian dilemma. It looks to the United States to be able to survive, and about all the United States knows how to do is to help speed destruction. Having become involved this far, America can't decently tell the Cambodians to forget it and lose. But neither can either country gain from a bloodier war.

There are no clean answers, now that war unhappily exists here too. For the United States, however, the only helpful answer is to sustain economic aid and refute the Cambodians' belief that what we want most from them is to fight, or that the American way of fighting is the way for Indochina.

The PRESIDING OFFICER. The Senator from New Hampshire has 2 minutes remaining.

Mr. McINTYRE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. McINTYRE. In conclusion, Mr. President, I wish to say that the original request by the Department of Defense for research and development was almost $8 billion. In effect, the result of the Appropriations Committee utilizing unobligated funds brings that, for all practical purposes, down $600 million. The effect of the amendment offered by the Senator from New Hampshire would be to restore that $100 million. The net addition is $93 million for the research and development which is badly needed and should be restored.

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

Mr. McINTYRE. I yield the remainder of my time to the Senator from Louisiana.

Mr. ELLENDER. The amount of money was not $8 billion. It is $7.9 billion.

Mr. McINTYRE. $7,950,000,000.

Mr. ELLENDER. $7.95 billion. So that it is not $600 million that we cut it. The total amount is $539.3 million.

Mr. McINTYRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from New Hampshire. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Louisiana (Mr. LONG), and the Senator from Utah (Mr. Moss) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. JAVITS), the Senator from Arizona (Mr. GOLDWATER), the Senator from New Hampshire (Mr. COTTON), and the Senator from Maine (Mrs. SMITH) are necessarily absent.

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

The Senator from Illinois (Mr. PERCY) is detained on official business, and if present and voting, would vote "nay."

The Senator from Ohio (Mr. SAXBE) is absent on official business.

If present and voting, the Senator from Maine (Mrs. SMITH) would vote "yea."

The result was announced—yeas 53, nays 33, as follows:

[No. 395 Leg.]

YEAS—53

Allen	Ervin	McIntyre
Baker	Fannin	Miller
Bellmon	Fong	Packwood
Bennett	Gambrell	Pastore
Bentsen	Griffin	Pearson
Bible	Gurney	Schweiker
Boggs	Hansen	Scott
Brock	Hollings	Sparkman
Brooke	Hruska	Stennis
Buckley	Humphrey	Stevens
Byrd, W. Va.	Inouye	Taft
Cannon	Jackson	Talmadge
Chiles	Jordan, N.C.	Thurmond
Cook	Jordan, Idaho	Tower
Cranston	Kennedy	Tunney
Curtis	Magnuson	Weicker
Dominick	Mathias	Williams
Eastland	McGee	

NAYS—33

Aiken	Fulbright	Nelson
Allott	Gravel	Pell
Anderson	Harris	Proxmire
Bayh	Hart	Randolph
Burdick	Hatfield	Ribicoff
Byrd, Va.	Hughes	Roth
Case	Mansfield	Spong
Cooper	McClellan	Stafford
Dole	Metcalf	Stevenson
Eagleton	Mondale	Symington
Ellender	Montoya	Young

NOT VOTING—14

Beall	Javits	Muskie
Church	Long	Percy
Cotton	McGovern	Saxbe
Goldwater	Moss	Smith
Hartke	Mundt	

So Mr. McINTYRE's amendment was agreed to.

Mr. McINTYRE. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. BYRD of West Virginia and Mr. CANNON moved to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON obtained the floor.

Mr. CANNON. Mr. President, I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that amendment No. 747 which was to have been offered be vacated.

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

Mr. CANNON. Mr. President, I had intended to raise a point of order against a provision contained in H.R. 11731, providing appropriations for the Department of Defense.

Mr. President, on page 43, line 11 of section 731 the Committee on Appropriations, in violation of the Rules of the Senate—rule XVI—has proposed new legislation in an appropriations bill. The legislation is contained in the following language:

Provided further, That funds in this Act shall be available for the procurement of commercial and cargo services only to the extent that the Secretary of Defense determines that such services are required to supplement the cargo airlift capabilities of the Military Airlift Command.

Mr. President, in seeking to explain its action, the Committee on Appropriations, on page 6 of its report, contends that such legislation does not violate rule XVI because it is germane to section 731 of the House bill and is therefore in order.

While I dispute that interpretation and while the Senate may have an opportunity to make a finding whether it is germane, I rise to point out that the amendment completely contradicts and nullifies what has been the policy of Congress and the executive branch of the U.S. Government for more than 15 years.

In light of the violence done by this amendment to longstanding Government policy I am incredulous, Mr. President, that the Appropriations Committee would even consider making such a far-reaching and profound change in policy knowing that this matter has been under review by the Commerce Committee for the last 9 months. Furthermore, I am advised that this subject was never before the committee during hearings on the appropriations bill, nor was the matter discussed, even in passing, by members of the committee during its markup session on the Defense appropriations bill.

Mr. President, it appears to me as though this amendment was inserted in the appropriations bill following a written recommendation by the chairman and the ranking minority member of the committee. That recommendation was made at the direct request of the Deputy Secretary of Defense. Secretary Packard was apparently motivated by the fact that the Committee on Commerce had recently ordered reported legislation reaffirming longstanding policy regarding

the role of the Nation's civil air carriers in augmenting the Nation's airlift capability in time of peace as well as in time of national emergency or war.

The Secretary of Defense, the chairman of the Senate Appropriations Committee and the Appropriations Committee staff know that this has been a matter of vital concern to the Senate Commerce Commitee since February of this year. To date, the Aviation Subcommittee which I chair, has held at least 5 days of hearings on the subject—has exchanged voluminous correspondence on it and finally, in total exasperation, has reported a bill S. 1821—Senate Report 92–503—introduced by my distinguished colleague from Washington, Senator MAGNUSON, forcing the Department of Defense to adhere to the policies established by the Congress and the President.

Apparently believing that it could circumvent the committees possessing jurisdiction in this manner, and thinking that Senator MAGNUSON'S legislation could be effectively thwarted through the appropriations process, the Department of Defense surreptitiously and without consulting either Senator MAGNUSON or myself offered an amendment to this bill which does have the effect of killing the provisions of S. 1821. Mr. President this is an unwarranted and devious attempt, by the Department of Defense, to subvert the rules and practices of the Senate to effect a change in policy which has not been authorized by the President or the Congress.

As far back as 1957, the Senate Committee on Appropriations, recognizing the distinction between the role of the Military Air Transportation Service, MATS—now known as MAC—and the civil air carriers in meeting the Nation's airlift needs said:

> Last year in the conference committee on the Defense appropriations bill the Senate jointed with the House in stating in a letter to the Secretary of Defense that the Government should, to the greatest extent practicable, adjust its use of air transportation so as to use existing unutilized capacity of United States air carriers. This statement was based upon our position that maximum utilization by the Department of Defense of United States civil air carriers is essential both in the promotion of our free enterprise economy and in the provision of the necessary ready reserve civil airlift for national defense; and that Government operations of its own air transport facilities should be limited to that essential to military security. (Senate Report 543, 85th Congress, First session, page 13)

Since that time, several committees of Congress including the Appropriations Committees of both Houses and the Armed Services Committees of both Houses have, time and again, concurred in that view. I will have more to say about that later.

Mr. President for the last several years the Department of Defense and the U.S. Air Force have been slowly undermining this long acknowledged policy. Since acquiring its new fleet of more than 250 C–141 Starlifters, and more than 40 C–5A Galaxies, the Air Force has sought to utilize these aircraft to completely reverse the roles of the Military Airlift Command and the U.S. civil carriers in meeting the international airlift requirements of the Department of Defense.

In fiscal year 1960, the total volume of military cargo which was moved by air was approximately 170,000 tons, of which only 17,500 tons or 10.5 percent was handled by the civil carriers. In the years which followed, the total volume of military cargo increased dramatically, largely as a result of the expanding war in Vietnam. The civil carriers, responding to the need, greatly expanded their cargo capacity, and the Department of Defense, in accordance with its announced policies, allocated to them an ever-increasing amount of military cargo. In percentage terms, the civil carriers' share of military cargo reached its peak in fiscal year 1962, when they carried 40.5 percent of all cargo moved by air. In terms of tonnage, the peak was reached in fiscal year 1967, when the civil carriers handled a total of 202,000 tons, which represented 33.6 percent of the total military cargo shipped that year.

Then, very suddenly, the trend was reversed. Although total military cargo shipments continued to grow in fiscal years 1968 and 1969, the amounts allocated to the civil carriers fell to 163,000 tons or 24 percent in 1968, and 148,000 tons or 20.3 percent in 1969.

In fiscal years 1970 and 1971 the total military cargo shipped began to decline, due to the reduction in the level of warfare in Vietnam. The amount carried by the civil carriers, however, fell off much more dramatically. In 1970, the airlines carried only 15.7 percent or 104,000 tons.

What has happened is obvious. There has been a complete reversal of policy. After inducing the civil carriers to acquire substantial cargo capacity by offering them a fair share of military cargo business, the Department of Defense has simply pulled the rug out.

In a memorandum submitted by the Air Force to me on April 7, this reversal of policy is quite clearly revealed. That memorandum states that—

> Efficiency and economy dictate the use of this (MAC) capability to satisfy logistic support requirements. (p. 1.)

It further states that—

> The primary role now developing for the civil air carriers is to replace the MAC aircraft on their worldwide DOD logistics support route when they are diverted to carry out a wartime deployment. (p. 2.)

Otherwise, the only role contemplated for the civil carriers, so far as international cargo is concerned, is—

> To satisfy peak international cargo demands. (p. 3.)

In "The Role of MATS in Peace and War," the definitive document on U.S. policy, the very first item listed under the heading "Presidentially Approved Courses of Action" reads as follows:

> 1. That MATS be equipped and operated in peacetime to meet approved military hard-core requirements in a general war and in situations short of general war, and such other military requirements as cannot be met adequately by commercial carriers on an effective and timely basis. (p. 5)

The Air Force has now turned this policy on its head. It proposed to use the civil carriers only for "such other military requirements as cannot be met adequately" by the military. The amendment in section 731 of this Appropriations bill seeks to ratify this change in policy.

Aside from being militarily shortsighted, the new Air Force policy is contrary to the whole philosophy of our free enterprise system. In effect, MAC is now running a cargo airline, at the taxpayers' expense, in direct competition with the commercial carriers. In the 1950's, the Congress repeatedly criticized MATS, MAC's predecessor for engaging in precisely this kind of competition with private enterprise. The Department of Defense ultimately recognized the validity of this criticism, and specifically altered its policies in response to it. This, indeed, is what "The Role of MATS in Peace and War" was all about.

Contrary to what the Air Force would have the Senate believe, MAC's cargo operations today go far beyond the requirements of minimum training of flight crews. Until recently, MAC's cargo fleet was operating as much as 8 hours per day, and it is only because the volume of cargo has diminished that it is now proposing to reduce its operations to 4 to 4½ hours per day. The Air Force memorandum submitted to me on April 7 makes it crystal clear that its utilization of military cargo aircraft is now being pegged to military cargo requirements, rather than training and hard-core requirements. This is squarely contrary to established policy, and constitutes direct competition with the commercial carriers.

The current Air Force policy flouts not only the longstanding policy of the President, but also the recommendations made just last year by the House Airlift Subcommittee. In its report, that committee specifically disapproved the reduction in the civil carriers' share of military cargo traffic:

> This reduction in cargo airlift allocated to the CRAF participants is no incentive for the commercial carriers to order new cargo aircraft to offset the existing deficit.
>
> The C–5A was designed to airlift vehicles and cargo outsize to the C–141, not troops or general cargo. Yet the Air Force and MAC now propose to use the C–5 in peacetime for movement of general cargo—both bulk and palletized—under the guise of maintaining flight crew proficiency.
>
> The effect of such a policy will be the elimination of a substantial commercial cargo airlift capability now available from the civil carriers, in particular the supplementals. . . . (H.A.S.C. No. 91–59, pp. 9236–37.)

The Air Force seems to think it can use its own aircraft for routine cargo carriage in times of peace, and still expect the civil carriers to take over that function in times of emergency or of "peak" demand. Clearly, this makes no economic sense. The commercial carriers cannot afford idle capacity—their present financial posture makes that clear enough. If the Department of Defense does not use their cargo capability, then they will be forced to put it to work elsewhere or dispose of it. Either way, it will not be available to provide immediate airlift service for the military in times of national crisis. And certainly the civil carriers will not be willing or able to expand their cargo capacity unless there is an immediate and continuing market for it.

The basic concept of the policies which

were developed and applied so successfully in the early 1960's was that MAC, not the civil carriers, should retain a substantial reserve capacity for use in times of emergency. The routine cargo missions, which must be performed in peace as well as in war, were to be handled by the civil carriers, thus leaving MAC free not only to carry the "hardcore" traffic, but also with sufficient capacity in reserve to expand its hardcore operations in times of crisis. If MAC aircraft are heavily committed to routine supply missions, the will be unable to respond to an emergency without causing a substantial disruption of normal service. Moreover, unless the civil carriers are used to perform this function in times of peace, they will simply not have the capacity which would be needed in time of war.

Even from a training viewpoint, the current Air Force policy makes no sense. It seems elementary that if MAC is to carry hardcore traffic in times of crisis, it must train for that mission by performing the same functions in peacetime. This principle was recognized in a MATS document entitled "Review of the Civil Reserve Air Fleet Program" issued in 1963:

> It is imperative that any concept or system which is to be employed in wartime must be nothing more than an expansion of the system utilized in peacetime. Therefore there must be designed and tested in peacetime the operational concept and organization which must do the job in war. (p. 16.)

EXCESSIVE UTILIZATION OF MAC AIRCRAFT

The Air Force has programed 4.25-hours per day average utilization for its long-range cargo aircraft—claiming this is necessary to provide adequate training and to maintain proficiency and to maintain maximum surge capacity. In fact, this rate of utilization is far in excess of that needed for training and leaves far too little opportunity to increase utilization when surges are needed.

Using, as the Air Force does, three crews per aircraft, 4.25-hours utilization per day provides an average of 42½-flying hours per month for each crew member. The Air Force has reported to the committee that in fact the average hours flown per month by MAC airlift aircrews during August 1971 was as follows:

Aircraft commanders, 47.2 hours. Copilots, 44.3 hours. Navigators, 59.2 hours. Flight engineers, 48.5 hours. Loadmasters, 45.1 hours.

The average flying hours of an airline pilot working full-time ranges from 60 to 80 a month. Civil air carriers have testified that 6 to 8 hours flying time per month is adequate to maintain a pilot's proficiency.

In testifying before the committee the Air Force spelled out the Military Airlift Command's mission priorities as follows:

> The highest priority for peacetime use of MAC Aircraft is internal training of the MAC force for combat readiness. The next priority is joint training and exercises with other elements of the armed forces. The third priority is performance of special airlift missions not suitable for incorporation in the MAC channel airlift system. Movement of DOD channel traffic on military airlift aircraft is the lowest priority peacetime mission for those aircraft. To the extent, however, that productive airlift capability is created through training activities, we believe it to be in the interests of the national defense and of the taxpayer to minimize the cost to the Government by using this capability effectively to meet current transportation needs.

However, under questioning the Air Force testified that its flying hours are distributed among the training priorities in the following pattern.

First, internal training of the force for combat readiness: 8.4 percent.

Second, joint training and exercises with other elements of the Armed Forces: 15.4 percent.

Third, performance of special airlift missions: 12.1 percent.

Fourth, movement of DOD channel traffic on military aircraft: 48.5 percent.

Thus only 35.9 of the total flying hours performed by MAC crews is devoted to three highest mission priorities. The lowest priority mission—the one the civil carriers are capable of performing—accounts for nearly half of the total flying time of the Military Airlift Command force.

Clearly, this is indicative that the flying hours are inflated over and above those necessary to provide adequate training to meet the MAC mission and the Committee on Commerce is of the view that the current flying hour program could be significantly reduced without impairing the training and exercise of the MAC force.

The MAC aircraft themselves, of course, need no training. On the contrary, these extremely expensive logistic aircraft, purchased for high priority military cargo, are being needlessly utilized and worn out at too fast a pace in routine cargo operations. These expensive logistic aircraft were not procured for the purpose of flying routine cargo, post exchange goods and footlockers around the world.

As to surge capability, it is obvious that the larger the number of hours flown regularly, the smaller the number of hours remaining for expanding operations. If any proof were needed, the very limited ability of MAC to expand its operations in the past few months clearly shows that its surge capability is reduced by its excessive commitment to routine cargo operations.

MAC'S MISSION

MAC's wartime mission requires it to be capable of performing such combat missions as troop drops with the C–141, short field landings with the C–141 and C–5A, and other difficult and specialized military operations. The idea that MAC can achieve meaningful training for its combat role by performing routine logistical support missions in and out of major airports or military airfields in peacetime is simply unrealistic. And it is even more unrealistic to think that a large and modern civil cargo fleet can simply be available, on a standby basis, "to replace the MAC aircraft on their worldwide DOD logistics support routes when they are diverted to carry out a wartime deployment," or even "to satisfy peak international cargo demands." Anyone who thinks this is possible has not read the history of the 1950's.

Even the Air Force has acknowledged that the continuation of the Civil Reserve Air Fleet—CRAF—is essential to the Nation's defense system. The CRAF concept, which was originated in 1952, has been periodically modified to meet changing defense needs, and to reflect economic realities.

Recent history has dramatically demonstrated the need for civil augmentation of military airlift to meet emergency situations. In every major crisis since World War II—the Berlin blockade, the Korean conflict, the Cuban missile crisis, the Vietnam war—the civil carriers have played an important role in providing essential transportation service to the military. Although the need to activate CRAF has never arisen, this is only because the civil carriers responded to the need voluntarily. And the fact that they had the capacity to respond was, especially in recent years, largely the result of the CRAF program.

An essential part of that program is the procurement policy which was developed in the early 1960's. Under this program, each carrier's military business is related directly to its CRAF commitments, not only in terms of the number of aircraft committed but also the size and type of aircraft involved. Before this procurement policy was initiated, the CRAF fleet was woefully inadequate. Today, as a result of the enlightened policies of the early 1960's, the CRAF passenger fleet consists of 126 long-range passenger jets and 196 cargo jets, of which 12 are fully convertible.

As the House Airlift Subcommittee observed in its recent report, however, "modernization of the CRAF is a continuous process." H.A.S. C. No. 91–59, p. 9236. In particular, the committee noted that "current firm orders for new aircraft do not indicate production of enough convertible or cargo aircraft to fulfill projected wartime requirements." Ibid. And continuous expansion and modernization of the entire fleet is obviously essential if it is to be capable of meeting tomorrow's needs as well as those of today.

The recent decision of the Air Force to withdraw almost all international military cargo traffic from the civil carriers is certainly not calculated to preserve and strengthen CRAF. On the contrary, its inevitable effect will be to weaken the ability of the civil carriers to respond in time of crisis—particularly in the area of cargo capacity, where a shortage already exists. What we are witnessing today is a repetition of the same shortsighted policies, which, in the 1950's prevented the expansion of the civil fleet.

BACKGROUND

The concept that an effective military airlift system must be based upon a partnership between what was then known as the Military Air Transport Service—MATS—and the civil air carriers can be traced back to the late 1940's and early 1950's, when a series of Defense Department studies all concluded that programs and policies must be developed for the rapid mobilization of civil aircraft to augment the military airlift system in time of national crisis. Pursuant to Executive Order No. 10219, issued by President Truman on February 28, 1951, the Department of Defense developed the

first plan for the establishment of a "Civil Reserve Air Fleet"—CRAF—which was issued on March 20, 1952.

It was recognized very soon thereafter that in order to have a large and modern civil fleet available for use in time of crisis, the Government would also have to use that fleet for routine traffic in peacetime. Thus, in 1954, a report entitled "Civil Air Policy" prepared for President Eisenhower by the Air Coordinating Committee, comprised of Government officials of both military and civil agencies, advanced the following recommendations, among others:

(3) In determining the extent to which air transportation will be used in meeting military peacetime and wartime airlift requirements, the Department of Defense should continue its policy not to engage in competition with private industry, and to support the expansion of the nation's civil airlift capability on an economically sound basis. (p. 17)

(4) The Government should, to the greatest extent practicable, adjust its use of air transportation so as to use existing unutilized capacity of United States air carriers. (p. 17)

(5) Federal Agencies should, within . . . sound . . . supply management, expand their use of civil cargo airlift as it becomes available for routine, non-emergency use. (p. 24.)

In 1955, the Hoover Commission's Report on Transportation recommended:

That the peacetime operations of the integrated Military Air Transport Service be restricted and realistically limited to persons and cargo carefully evaluated as to necessity for military air transportation and, only after commercial carriers have been utilized to the maximum extent, should transportation on Service carriers be authorized. (p. 59)

In the same year, the Comptroller General's audit report on the Civil Aeronautics Board included the following statement:

We believe it important that the Congress direct the Department of Defense to transfer, wherever possible, military mail, cargo and passengers to United States certificated air carriers. As stated in the (Air Coordinating) Commission's report, prompt action by the Department would result not only in a significant reduction in subsidy for international carriers, but also in the development of an economic self-sufficient civil airline system, thus providing a substantial reservoir of airlift to be available to meet mobilization emergencies. (p. 30)

These policies, however, were not really implemented in the 1950's. As the MATS fleet of military aircraft expanded, the Department of Defense tended increasingly to utilize these aircraft for purposes which could appropriately be served by the civil carriers. Several congressional committees took note to this problem, and asked the Defense Department to correct the situation. For example, in 1956 the House Appropriations Committee emphasized the fact "that commercial air facilities, including scheduled and nonscheduled airlines, are an essential part of the overall mobilization transport strength of the United States," and called upon the Air Force to—

Give attention to handling its air transport business in such a way as to assist in keeping the non-scheduled and other airlines in a reasonably sound financial and operating position. (R. Rep. No. 2104, 84th Cong., 2nd Sess., p. 46 (1956)).

The Senate committee fully concurred with this view, as I noted above.

In 1958, a comprehensive investigation of the entire relationship between the civil carriers and the Department of Defense was undertaken by the Military Operations Subcommittee of the House Government Operations Committee. The committee produced a lengthy and thorough report, containing 22 specific recommendations. Among them were the following:

Recommendation No. 2:

The Military Air Transport Service should concentrate on outsize and special-cargo traffic and technical missions, leaving to the civil air carriers the primary responsibility for the transportation of passengers and the more conventional kinds of military cargo.

Recommendation No. 3:

The applicable military directives and regulations should be redrafted to eliminate the preferential position of the Military Air Transport Service in peacetime military airlift and to establish, consistent with other recommendations in this report, a full partnership role for civil carriers in moving peacetime military traffic and in contributing to war readiness through the Civil Reserve Air Fleet.

Recommendation No. 4:

In the event the applicable military directives and regulations are not redrafted to eliminate the preferential position of the Military Air Transport Service and an effective program is not developed for expanding the use of commercial air services, the Congress should adopt appropriate legislation to achieve these objectives.

Recommendation No. 5:

The Civil Reserve Air Fleet should be expanded and more closely integrated with military airlift missions. It is especially important that the Air Force encourage the civil air carriers to procure more modern cargo aircraft for the Civil Reserve Air Fleet, by allocating to these civil carriers a larger share of the cargo traffic of the Military Air Transport Service. Such action would more adequately provide the incentive necessary to overcome the dangerous risk inherent in the deficit that now exists in meeting overall wartime requirements for cargo airlift. (H.R. Rep. No. 2011, 85th Cong., 2nd Sess., pp. 5–7 (1958)).

Another detailed investigation was conducted in 1960 by the Airlift Subcommittee of the House Armed Services Committee. Its report clearly revealed the extent to which the Defense Department's underutilization of civil carriers had seriously weakened the Nation's overall airlift capability:

In the cargo area the CRAF capability is not only grossly inadequate in terms of capacity, but it is limited and outmoded in terms of equipment . . . There is not a single aircraft in CRAF's cargo fleet which was specifically designed for cargo operations. It is this gross deficiency which gives rise to an overriding requirement that new, turbine-powered cargo aircraft be procured by the civil carriers who participate in CRAF and that there be created an incentive for such participation. (H.R. Rep. No. 53, 86th Cong., 2nd Sess., p. 4042 (1960)).

To meet this problem, the subcommittee recommended that new procurement policies be devised which would create a greater incentive for the civil carriers to modernize and expand their cargo capacity.

In the same year, the Department of Defense issued a detailed report of its own on the entire problem, entitled "The Role of Military Air Transport Service in Peace and War." This report, for the first time, articulated a clear division between the respective roles of the military and civil in the total airlift system:

In the context of the philosophy of maintaining within the Armed Forces only the resources or capability essential to the effective implementation of military strategy, MATS ideally should perform only the "hard core mission" leaving to the commercial carriers the job of providing airlift for routine logistic supply and normal personnel movements in accordance with criteria prescribed by the Department of Defense. This is a realistic delineation between military and commercial carriers for programming purposes. However, for peacetime operations economic considerations will dictate some adjustment. (p. 9).

The report also noted that:

Current airlift procurement policies and practices are not accomplishing the desired results in promoting a healthy growth of United States overseas commercial cargo airlift capability. With Congressional approval, if necessary, they should be better adapted to reflect the long-term interest of the Department of Defense in commercial airlift capability and provide the continuity and stability required for effective and economical support of military forces. (p. 4).

A number of specific "Presidentially Approved Courses of Action" were set forth in the report designed to implement the policies and objectives noted above. These included the curtailment other than hardcore traffic, and the expanded utilization of commercial carriers for these purposes. To provide greater incentive for expansion of the civil cargo fleet, the report called for the elimination of competitive bidding, which had generally produced uneconomical rates for the transportation of military cargo, and the substitution of CB ratemaking in this area. In addition, it proposed a major overhaul of the CRAF program, and the development of a formula by which a carrier's share of military traffic would be determined by such factors as the quantity and relative value of the aircraft which it has committed to CRAF, and its willingness to acquire cargo aircraft.

"The Role of MATS in Peace and War" was the product not only of Defense Department studies, but also of the work which had been done over the years by various committees of the Congress. The policies which it contained were promptly implemented, and resulted in a rapid expansion and modernization of both the military and civil segments of the airlift system.

As a result of the new policies adopted at the beginning of the decade, the cargo capacity of both the military and civil carriers was greatly expanded and modernized in the 1960's. On the military side, MAC has acquired a massive fleet of C–141's now being supplemented by the C–5A's On the civil side, new modern turbine-powered cargo and cargo-convertible aircraft have been acquired and committed to CRAF. The total civilian capacity in cargo ton-miles committed to CRAF has increased five and one-half fold since 1960.

The benefits of the policy are well de-

scribed in a 1966 report of the Military Airlift Subcommittee of the House Armed Services Committee as follows:

This increased activity on the part of the commercial carriers in support of military requirements has benefited both the military and the civil airlines. The commercial airlift relieved military aircraft to perform other missions and to be available to meet military contingencies that arose. The civil carriers benefited from this Government business at a minimum rate determined to be fair and reasonable by the Civil Aeronautics Board. The revenue from this Government business has served the intended purpose of helping the commercial airlines to modernize their fleet by acquiring new long-range jet aircraft which are more efficient, reliable and less costly to operate. This increased capability, especially in the long-range jet cargo equipment, becomes an important asset to our national airlift inventory, and will make a substantial contribution in the future toward meeting the military requirement for airlift in times of emergency.

The military-civil partnership which was fostered by the policies of the 1960's yielded enormous benefits to the Government, the air transport industry, and, most importantly, the Nation as a whole. It provided an essential military airlift capacity at a cost far below what the taxpayers would have had to spend if that capacity had been provided primarily by the military services themselves. Simply by using civil carriers for the performance of needed military cargo and passenger transportation, at rates which were far below those paid by commercial passengers and shippers, the Government was able to obtain not merely efficient transportation service, but also a huge reserve fleet of aircraft which is available on a moment's notice to augment the military airlift capability in time of war. This reserve fleet, which has an estimated value of $3 billion, was created without cost to the Government, entirely through private financing.

The acquisition by the carriers of aircraft suited to the needs of the Department of Defense was no mere accident. It was the result of a carefully planned procurement policy, designed to encourage and reward such acquisition. The continued modernization and expansion of this fleet will depend upon the continuation of the same kind of policy.

The procurement policy which the Air Force has adopted in the last year or two ignores the demonstrated benefits of the military-civil partnership concept which was developed in the 1960's. It ignores also the need for the continued maintenance and modernization of the civil fleet. It represents a return to the policies of the 1950's, which failed to produce an adequate airlift capability and which were condemned by the Congress and the President.

Mr. President, the subject matter covered in the committee amendment to section 731 of this bill is fully treated in the hearings on S. 1821, a bill now on the calendar. I do not expect to call that bill up until sometime after the first of the year. However, it has been the subject of a number of days of hearings and diligent work on behalf of the committee. The amendment proposed in this bill which, as I said, I believe to be subject to a point of order, would completely undo the work that the committee has put into S. 1821 after long and involved hearings and study.

Before making a point of order, I discussed this matter with the distinguished Senator from Louisiana, the chairman of the committee, and he and I and Senator MAGNUSON have reached an agreement under which the Committee on Appropriations will agree to strike the amendment in section 731.

Mr. ELLENDER. The Senator is correct. And the language to which he refers appears on page 43, lines 11 to 15 of the bill. And when the bill that he mentioned, S. 1821, is called up, an amendment will be added to the bill indicating that the bill will not be applicable to fiscal year 1972. With that understanding, I agree to strike from the bill the language to which the Senator objects.

Mr. CANNON. I will accept such an amendment to S. 1821, at such time as it is before the Senate to postpone the effective date of the bill until July 1, 1972.

Mr. ELLENDER. The Senator is correct.

Mr. MAGNUSON. Mr. President, may I say that I deeply appreciate what the Senator from Louisiana has agreed to on this matter. Obviously the Senate must tackle this problem in its legislative committees. I do not know, but I doubt that the bill will be taken up before next year. I understand it is on the calendar.

Mr. CANNON. It is on the calendar. It will not be taken up until after the first of January when we come back from the recess.

Mr. MAGNUSON. This is a fair and equitable solution.

WHY NOT A CEILING ON C–5A SPENDING?

Mr. PROXMIRE. Mr. President, in the Military Authorization Act for fiscal year 1972, we carried forward the C–5A funding restrictions first imposed last year with reference to the contingency fund approved for this program.

The Senate Armed Services Committee insisted on continuing this restriction, and in its conference with the House Armed Services Committee, prevailed over what I understand were very strenuous objections to this language.

The act now provides that the prime contractor, the Lockheed Corp., is precluded from including bid and proposal costs, independent research and development costs, and costs of other similar unsponsored technical effort, or depreciation and amortization costs on property, plant, or equipment, in those costs recoverable under the C–5A aircraft program.

It is my understanding that this restriction could save the taxpayer a maximum of $20 million. This is not an insignificant sum. It is a lot of money. And I am very pleased at the Senate committee's strong position to continue the funding restriction.

However, we are talking about a program that is expected to cost $4.5 billion. That at least is the most current Air Force estimate of the total program costs to the Government.

Is it not true that if the costs increase again under the new reimbursement type contract, the Government will have to pay them? Why not impose a ceiling on the Government costs for this program?

I believe that Congress ought to legislate a ceiling on the C–5A.

It is universally acknowledged that the C–5A will experience one of the largest cost overruns in the history of weapons procurement. The overrun that is now expected will be extremely high both in absolute dollars and as a percentage of the original estimated unit cost.

It was originally estimated that 120 aircraft would cost $3.4 billion, or about $28 million each. It is now estimated that 81 aircraft will cost $4.5 billion, or more than $58 million per copy. If the original planning estimate is adjusted for the reduced quantity to be purchased, the dollar amount of the overrun is about $2 billion. I might add that the Air Force reduced the quality of C–5A's precisely because of the cost overrun that was being experienced.

On top of the unfortunate cost history is the fact that current Air Force plans call for keeping the C–5A in a largely idle condition. I understand that the distinguished chairman of the Senate Armed Services Committee has himself raised questions about the planned utilization rate for the C–5A. I have read the testimony of the Air Force given in the Senate Armed Services Committee hearings this year and, in my judgment, the distinguished chairman's questions on this point were not satisfactorily answered.

We all recall Lockheed's demands for additional funds to finance this program. In response to those demands, and after long negotiations between Deputy Secretary David Packard and the Lockheed Corp., the original contract was, in effect, torn up and a new one was put in its place. The old contract was a fixed-price incentive type. The new contract is a cost reimbursement type, with a fixed-loss provision.

This cavalier treatment of the contractual obligations entered into in writing by both parties is indicative, in my judgment, of the permissive attitude toward defense contractors in general, and toward the contractor in the C–5A program in particular. I would hope that this incident will serve as an answer to those who in the future might raise questions about the sanctity of Government contracts.

The practical effect of a cost reimbursement agreement is the removal of the lid on the costs of this program. Congress, under the new contract, is now liable for all C–5A costs no matter how high they go. In theory, there was at least a limit to the amount of Government liability under the old fixed-price contract. Presently there is not even a theoretical limit, as the Pentagon, by writing a new agreement, has obligated itself to pay any and all costs of this program.

The question is, why should the Congress go along with this kind of arrangement? Why not legislate a ceiling on the C–5A program, placing a limit to the Government's liability? Certainly, under the circumstances, considering the enormous cost overruns and the technical problems and structural defects that have plagued this program, Congress would be well justified to drawing a line and saying, beyond this point we will pay no more for the C–5A.

In David Packard's testimony to the

Senate Armed Services Committee this year, it was indicated by him that the Department of Defense has unofficially taken a similar view toward any cost increases in this program, for the time being anyway. Mr. Packard stated then:

I have advised the Secretary of the Air Force that I am not going to request funds beyond our current estimate of program costs. It is up to him to get the aircraft within these funds.

Why should not the Congress take Mr. Packard at his word and incorporate his views into the legislation by adding a ceiling?

The ceiling I would impose would be quite liberal. I would use the Air Force's current estimate of total Government costs to complete this program, which I understand is $4.5 billion, and use that figure as the ceiling. If the Air Force is confident that the program will not grow beyond this amount, why not insist that they live by it?

OPEN ENDED C–5A THROW AWAY MAKES NO SENSE IN VIEW OF 40-PERCENT RESERVATION FOR COMMERCIAL CARGO

Mr. PROXMIRE. I am adamantly opposed to any language that would require the Air Force to shift a portion or a fixed amount of its cargo business to commercial carriers. But this is what the Senate would do in 1973.

Any such provision would be a new Government subsidy to private industry. It would also compound the waste and add to the costs of the C–5A program. I believe the American taxpayer has paid enough for this aircraft. The agreement has been made to enforce further C–5A idleness.

In order to see this problem in perspective, it may be useful to review some of the facts about the C–5A.

It has been one of the most mismanaged military procurements in our history. The cost overrun is expected to be about $2 billion. On a unit cost basis, the aircraft will run about twice as much as the original estimates, from $28 million to $58 million each.

The chances that the program will involve additional costs for the Government are, in my judgment, all too good. Under the new cost reimbursement contract entered into between the Pentagon and Lockheed earlier this year, the Government is liable for all and any costs in this program. If one of the planes is in an accident, regardless of whose fault it is, the Government must pay for the repairs.

If, because of poor workmanship or any other failing on the part of the contractor, an aircraft is damaged or destroyed, the Government must pay. If there are structural defects in this plane that need to be corrected, the Government must bear the costs, even though the defects were brought about by the contractor.

In fact, the Government has already paid dearly for the numerous deficiencies that have turned up on this plane. The total costs are expected to be about $4.7 billion, most of which has already been spent.

Now, the question is whether the Air Force ought to get some use out of the program that has cost so much. The facts about current plans to use the C–5A are very discouraging.

The daily utilization rate for the C–5A so far has been 3 hours. The Air Force plans to increase this utilization rate eventually to 4.75 hours. But this is far below the norm.

Commercial cargo carriers employ a 10 to 14 daily hour utilization rate for their aircraft, for the 707 and for the DC–8. Thus, the Air Force plans call for using the C–5A at the most about one-third the commercial utilization rate. The C–5A is already a largely idle aircraft.

The reason for this is quite simple, and very similar to the plight of the commercial airlines. The Air Force has purchased more cargo planes than it needs. There is now a tremendous overcapacity of military cargo planes. I recently asked the General Accounting Office to compile some figures on utilization rates of military cargo carriers and of actual cargo carried.

I ask unanimous consent to print in the RECORD at this point the tables compiled by the General Accounting Office.

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

WASHINGTON, D.C.,
October 15, 1971.

HON. WILLIAM PROXMIRE,
Chairman, Subcommittee on Priorities and Economy in Government, Joint Economic Committee, Congress of the United States.

DEAR MR. CHAIRMAN: In response to an informal request from your committee, we have furnished to you various statistical information concerning the utilization of military cargo aircraft. In confirming this information below, we are presenting the data in the order requested.

AVERAGE DAILY HOURLY UTILIZATION OF EACH TYPE OF MILITARY CARGO AIRCRAFT USED BY THE MILITARY AIRLIFT COMMAND DURING FISCAL YEARS 1969, 1970, AND 1971.

Type of aircraft	Fiscal year— 1969	1970	1971
C–133	5.1	4.8	4.2
C–141	7.8	7.2	6.4
C–5a	None	.57	3.0

Source of Information: Report RCS—SSA 41, History of USAF Hours for Planning and Reference.

Actual cargo carried (in million ton miles) by the military airlift command—including contract—carriers for fiscal years 1961 through 1971

1961	1421.2
1962	1771.6
1963	2049.8
1964	2075.2
1965	2293.5
1966	3442.8
1967	5474.9
1968	7467.2
1969	7341.5
1970	6095.9
1971	4910.1

Source of Information: Headquarters, Military Airlift Command.

AVERAGE DAILY HOURLY UTILIZATION OF EACH TYPE OF MILITARY CARGO AIRCRAFT USED BY THE MILITARY AIRLIFT COMMAND DURING FISCAL YEARS 1961 THROUGH 1968

Aircraft type	Fiscal years 1961	1962	1963	1964	1965	1966	1967	1968
C–97		3.4	3.8					
C–18	5.2	4.5	4.2	3.8	4.1			
C–121	4.8	4.2	4.0	3.3				
C–124 (troop carriers)	2.4	2.4	2.3	3.0	2.8	2.8		
C–124 (cargo transport)	4.4	4.3	3.8	4.0	4.1	4.3	3.8	4.2

Aircraft type	Fiscal years 1961	1962	1963	1964	1965	1966	1967	1968
C 130			3.3	3.8	4.5	5.8	6.6	6.5
C 133	4.0	3.6	3.7	4.2	3.0	5.3	5.5	5.4
C–135		4.5	4.5	5.0	4.7	5.3	6.3	4.2
C 141					4.2	4.7	6.6	7.1

Source: RCS–SSA 41, "History of USAF Hours for Planning and Reference."

The committee subsequently asked that we clarify a discrepancy concerning the average daily hourly utilization of C–141 during fiscal year 1970. The 7.2 hourly utilization rate which the Air Force had provided to us was in conflict with testimony by Mr. Robert C. Seamans, Jr., Secretary of the Air Force, before the Committee on Armed Services, United States Senate, on S. 939 (H.R. 8687). A schedule submitted by Secretary Seamans appeared on page 1237 of these hearings with a footnote stating that the Military Airlift Command C–141 force was flying an 8.0 utilization rate in fiscal year 1970.

Further investigation by the Air Force showed that the 7.2 hourly utilization was correct and that Secretary Seamans had quoted the 8.0 programmed hourly rate rather than the actual rate.

We informed the Committee that the information which we furnished was provided to us through our Air Force liaison office in the Department of Defense. Because of the immediate need for the information, it was not independently verified by the General Accounting Office. The sources of the information are those identified to us by the Air Force liaison office.

We will be glad to furnish any additional information required by you or the committee.

Sincerely,

R. F. KELLER,
Deputy Comptroller General of the United States.

Mr. PROXMIRE. It will be noted that the utilization rate of the C–5A for fiscal year 1971, indicated in the first table, was 3 hours. This compares with the 6.4 hour utilization rate for that year for the C–141, and the 4.2 hour utilization rate for the C–133.

If we look at the fiscal year 1969 column, we find that the C–133 was used 5.1 hours per day, and the C–141 was used 7.8 hours per day.

I am informed that the utilization rates of both the C–133 and the C–144 are expected to decrease even further. What is the explanation for the reduced utilization rates for these aircraft?

The explanation is that the adding of the C–5A into the Air Force's inventory has given it a tremendous overcapacity

of cargo carriers. As this overcapacity grows it is necessary to reduce the utilization of the other military transports.

This represents, not a conservation of aircraft, but a huge waste. It is wasteful to purchase equipment that you do not need. It is wasteful for military aircraft, purchased with taxpayers' money to be underutilized. And it is clear to me and it should be clear to all that a 3-hour utilization rate or a 4.75-hour utilization rate is much too low and is wasteful.

The current proposal would aggravate this situation. To require the Air Force to give a fixed amount of its cargo business to commercial airlines would inevitably further reduce the utilization rates of military aircraft, especially the C–5A.

I have been an outspoken critic of the C–5A program. I still criticize it. It costs too much, it has been mismanaged by the Air Force, and the contractor's performance has been poor. In my opinion, the public has been bilked. We did not need the 81 planes that the Air Force agreed to buy in the first place.

But now we have the C–5A's. Most of them have been built and delivered to the Air Force. A number of them are flying. What are we to do, ground them while the work they are designed to do is carried on by the commercial airlines?

Mr. President, this amendment will add to the costs of the C–5A and it is an unnecessary and unwarranted proposed subsidy.

Mr. ELLENDER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Delete lines 11 through 15 on page 43.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be reported.

The legislative clerk read as follows:

On page 23, lines 14 through 15, strike $1,795,656,000 and insert in lieu thereof $1,796,256,000.

Mr. BROOKE. Mr. President, included in the Defense appropriations bill as passed by the House of Representatives and reported by the Senate Appropriations Committee is a reduction of $600,000 for food research by the Natick Laboratories in Natick, Mass.

The amount involved in this reduction is very small—it is perhaps one of the smallest items in the entire bill. But it is a particularly important item in terms of our overall military objectives.

For years, the Natick Laboratories have done food research for the Department of the Army. In that time, the laboratories have developed a vast array of new methods for preparing, preserving, and distributing food products to American servicemen. As anyone who has served in the Armed Forces well knows, the morale-boosting effect of a well-prepared meal cannot be overstated. I well remember, in my own career, how much it meant to have a small can of fruit cocktail on a hot, dusty train in North Africa. And I can well imagine how equally important it must be for men in the field in Vietnam to be able to eat flavorful radiation-preserved meats or freeze-dried fresh vegetables while on patrol.

So well have the dedicated men and women at the Natick Laboratories done their job that their responsibilities have been expanded, as of July 1, 1971, to cover not only the Army's food research programs but similar programs for the entire Department of Defense. Scientists at the laboratories are presently working on ways to freeze-dry the making of an entire cherry pie so that it can be preserved and used many months later in the field or on board a submarine. They are trying to develop ways of fresh-freezing lettuce and other garden vegetables so that servicemen may have fresh salads the entire length of a 25- or 30-day voyage by sea.

In these days when we are moving toward an all-volunteer army, the quality of the food which is served to the military plays a vital role in encouraging and retaining volunteers. Simply stated, better food can mean more volunteers, higher morale, a lower turnover rate, and a consequent cost saving in terms of training and disciplinary procedures.

But the new responsibilities which have been thrust upon the Natick Laboratories have come at a very unfortunate time in terms of their overall budget.

In fiscal year 1971, the laboratories had a budget of $3.6 million for food research for the Army. In fiscal year 1972, the Department of Defense requested $6.2 million for the expanded program. This amount was reduced to $5.7 million by the authorizing committee and was reduced another $600,000 by the House of Representatives. This further reduction was sustained by the Senate Appropriations Committee.

Yet certain items included in this budget were irreducible: Because of inflationary pressures, the laboratories required $4 million just to maintain present operating level. In addition, it has become absolutely essential that they purchase new bars of cobalt-60 for their food irradiation program. Funds for the purchase of this cobalt have been in every appropriations request since 1967, but in each case they have been disapproved and the purchase has been deferred for another year. This year, the purchase can no longer be postponed. The bars of cobalt presently in place have been utilized to their maximum capacity. The radiation facility has been operating on three continuous shifts per day in order to achieve the amount of radiation needed within the time prescribed. Overtime pay for the operators of the facility has eaten into many of the funds originally allotted for other projects. The laboratory must have its new cobalt-60 this year.

Research projects which will have to be postponed to pay for the Cobalt-60 include new cooking and baking techniques, studies on the preservation and preparation of food at high altitudes for the Air Force and the NASA space program, development of heating systems for individual rations for men in the field, studies on the prevention of insect infestation of certain food products, and a host of other equally worthwhile and desirable projects.

Mr. President, an additional $600,000 does not seem too much to ask for so important and constructive a program. With a total of $5.1 million—the full amount authorized by the Armed Services Committee—the Natick Laboratories could begin to meet the requirements of the Navy, the Marine Corps, and the Air Force by initiating new projects suited to the particular operating conditions of these services. I strongly urge that the Senate restore this $600,000 for food research. I have discussed this amendment with the distinguished chairman of the Appropriations Committee, Senator ELLENDER, and with the distinguished ranking member, Senator YOUNG, and would welcome their comments on this amendment.

Mr. KENNEDY. Mr. President, I am happy to join today with Senator BROOKE in an amendment urging the restoration of $600,000 to the Department of Defense food research and development program. During the debate on authorization for this program we were concerned with restoring $2.2 million to the budget request for this program carried out at the U.S. Army Natick Laboratory in Massachusetts. Today this amendment seeks to restore $600,000 to the appropriation.

A budget reduction of $600,000 for this research and development program can only be termed shortsighted. It may be true that the food technology program at one time was designed to study food delivery technique for the Department of the Army alone. But that is no longer true. This program serves all branches of the military service including the Air Force, Navy, Marines, as well as the Army.

It may be true that when the program was begun no one foresaw the implications for the civilian community of the success or failure of the program. But that is no longer true. This research and development is the pivotal link in governmental research into food preservation for civilian as well as military uses.

It may be true that troop reduction in Southeast Asia means that adequately preserved and nutritious food is in less demand, because of fewer numbers. But that is not the whole truth. There are thousands of men and women serving in the Armed Forces to whom meals and morale are still important; and we owe them the best we can deliver in the way of fast and appealing meals.

A cutback in funding for the food research and development program at the Natick Army Labs could affect a most important area of research and development: Studies in garrison feeding for all branches of the Armed Forces. Approximately 52 percent of servicemen entitled to eat in military dining facilities buy their meals at restaurants. This involves not only a waste of effort and technique in military dining facilities, but a great disservice to the man or woman serving in the military service who finds it so depressing or unattractive to take advan-

tage of these meals, that he or she feels compelled to leave the base. Research into the delivery of appealing and nutritious meals to large numbers could be very important to schools, hospitals, and other institutions faced with similar problems.

If there is any reduction in this program, while the savings may be small, the numbers affected include those thousands serving in all branches of the military service. This program, designed to serve all the services jointly, was originated to save money and avoid duplication of effort. Each branch of the service does not request funding individually for research into food service technology as the Department of the Army, primarily at the Natick Labs in Massachusetts, is now responsible not only for solving the Army's unique food delivery problems, but all the branches' individual requirements as well as those problems they face jointly in terms of food delivery.

The White House Conference on Food, Health, and Nutrition in 1969 investigated the problems of food technology within the Armed Forces. And as Senator PERCY of Illinois pointed out, the implementation of their recommendations regarding feeding systems, food production facilities, food processing, and food service personnel could result in a savings of as much as $500 million annually and possibly as much as $1 billion a year.

The Natick Army Labs are researching fast, efficient, effective, and safe feeding systems. Dr. Edward S. Josephson, assistant director for radiation at Natick, points out that the Department of Defense food R.D.T. & E. for fiscal 1972 is the initial attempt to bring all the important technologies to bear on a coordinated effort to upgrade the feeding systems in all of the services. A pilot experiment at Fort Lewis increased attendance in military dining facilities from 48 to 78 percent while reducing food service manpower 40 percent. There is no reason why an enlisted man who is entitled to meals as part of his compensation should prefer restaurant facilities to the military dining facilities. He is not entitled to second-rate meals, but to attractive, appealing and nutritious food.

Based on the results of this experiment we have good reason for high expectations at the conclusion of the research program to improve feeding systems. Dr. Josephson points out that it is critical now to support this important work, and the restoration of the $600,000 will allow a continuation of the research and engineering that will lead to even further improvements.

In addition to developing new garrison feeding systems, Natick Army Labs is conducting research into new cooking and baking techniques designed to produce high quality food products with increased yield. This research program could result in a savings of as much as $1 million annually. No trend in food technology is more significant than that of increasing the nutritional value of food as yield is also increased. For too long we have paid little attention to the nutritional value of food, but there has been an awakening among consumers. Some foodstores are experimenting with nutrition content labeling. Leading scientists and physicians are outlining for us the importance of nutrition to health and well-being. And surely the less wealthy countries must look forward to a technology which allows an increased yield without the loss of nutritional quality.

The Army research program has also concentrated its efforts in frozen food product research. As in the other areas of research and development this too has high potential for the civilian sector. Research which has outlined successful methods of freezing and a continuing inquiry into the preservation of nutritional value in frozen foods unfortunately has not been accompanied by successful technology for improving frozen food appeal. In some cases frozen food has become so unattractive as to be of little value, because it is so seldom used. This research program attempts to increase the acceptability of frozen foods, making them more attractive to the consumer.

The argument that this type of R. & D. should be left to the commercial food industry is not well founded. A spokesman for the food industry recently pointed out that at least 90 percent of their R. & D. results are considered proprietary. Their engineering and technology does not have the same specific goals and is not designed to serve the same ends. There is little requirement on the commercial market for expansive feeding systems. The food industry—faced with its own problems in technology—is not conducting research to be turned over to the Army for military use.

The military services have always been the leaders in the area of food technology. Because of the needs of Napoleon's army, canning was developed. Many of our commercial packaging techniques resulted from military service techniques. All of the innovative research and development into radiation processing has progressed as the result of military needs to deliver nutritional and varied food items to the Armed Forces.

We do not have a higher priority than the alleviation of hunger and human misery. And it is to this end that the national food radiation program, also conducted at Natick Labs, is directed. Surplus commodity distribution within the United States and emergency food delivery around the world will benefit from the answers we find in this program.

I can think of no finer success for the Department of the Army than the development of the most efficient method of delivery of food in emergency situations. As I have said before, as chairman of the Subcommittee To Investigate Problems connected with refugees and escapees, I have seen time and time again what fast and efficient food delivery in an emergency situation means. It can mean the difference in terms of growth, in terms of health, and very often in terms of survival.

In restoring $600,000 to the DOD food technology program appropriation we will assure continued research and development into a field in which the Army has already demonstrated its success. To abandon or reduce such a program at this point is not only to lose an investment in talent and money, but to significantly affect hundreds of thousands of men and women serving in the Armed Forces. And ultimately this affect will be felt in the civilian community as well. I urge that the $600,000 be restored for this program.

Mr. ELLENDER. What is involved in the amendment?

Mr. BROOKE. The restoration of $600,000 to the defense appropriation bill for more research, food research for the Department of Defense. The Natick Laboratories were doing research for the Department of the Army. It is now expanded to include all of the services. The House cut back the appropriation request of the Department of Defense by $1.1 million. It was then further cut back by $600,000.

Mr. ELLENDER. And the Senator's amendment simply restores the $600,000?

Mr. BROOKE. The Senator is correct.

Mr. ELLENDER. Mr. President, in view of the adoption of the amendment of the Senator from New Hampshire, I have consulted with a few members of the committee. We are willing to accept the amendment and take it to conference.

I yield back the remainder of my time.

Mr. BROOKE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. STENNIS. Mr. President, on behalf of myself and the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Wisconsin (Mr. PROXMIRE), I send an amendment to the desk and ask that it be stated. The vote will be a voice vote.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 34, line 17, after the word "duty" insert "subject to existing laws".

Mr. STENNIS. Mr. President, I have sent to the desk a short clarifying amendment which I hope will cause no Senator any difficulty. The distinguished Senator from Wisconsin (Mr. PROXMIRE) and the distinguished Senator from Massachusetts (Mr. KENNEDY) are interested in this matter and have asked to be cosponsors of this amendment.

Section 713(c) on page 34 of the appropriations bill is normally included in each defense appropriations bill. It merely provides that if it is necessary for the President to increase the number of military personnel on active duty beyond the number for which funds are provided in this act, the Secretary of Defense is authorized to provide for the cost of such increased personnel. Such a provision is necessary for emergencies, for the President must have the authority to pay the reservists which he can call to active duty upon the declaration of a national emergency. This year, however, in the draft bill we imposed firm legislative ceilings for the first time on both the numbers of men who can be inducted into the Armed Forces and the average active duty strength of each service. These ceilings allow the President the flexibility to respond to emergencies but

only—and I would emphasize only—by calling up the Reserves.

Section 301 of the Selective Service Act makes it clear that these ceilings are firm ones except that the President may exceed them by ordering to active duty the Ready Reserve after declaring a national emergency. My concern is to make it perfectly clear that the passage of section 713(c) does not repeal the firm ceilings which were placed upon the numbers of draftees who may be inducted by the President and the average active duty strength. The amendment which I propose simply clarifies section 713(c). Under the amendment I propose the President would still have the authority to call up 1 million members of the Ready Reserve to active duty after declaring a national emergency and he would have the authority to pay these men. But it would be clear that section 713(c) does not repeal the important ceilings on draft calls and on average active duty strength.

I want to stress, Mr. President, that I am certain that the Appropriations Committee did not intend to repeal these ceilings by including section 713 (c). The section is what lawyers often call "boiler plate"—that is, a section which is ordinarily included in legislation. The section is necessary to insure that reservists called to active duty may be paid. But it must be clarified so that the executive branch will not again be able to involve the United States in a large-scale conflict without declaring a national emergency and without clear-cut manpower authority granted by the Congress.

MANPOWER AMENDMENT

Mr. KENNEDY. Mr. President, I rise to join the distinguished chairman of the Armed Services Committee and the Senator from Wisconsin in offering an amendment to the defense appropriations bill, H.R. 11731.

Essentially it is a technical amendment, erasing any confusion that might exist between the language in the current bill and the provisions of the draft bill which were enacted into law.

Those provisions, which were amendments I offered to the draft bill, placed absolute ceilings on the numbers of men who could be drafted each year and absolute ceilings on the number of active duty personnel in the Armed Forces.

The amendment setting an absolute ceiling on inductees, which included a perfecting amendment by Senator STENNIS setting the level at 130,000 for fiscal year 1972 and 140,000 for fiscal year 1973, passed 78 to 4 on June 9.

The amendment setting an overall ceiling on the size of the active duty military personnel and denying the President any escape clause passed by a vote of 79 to 0 on June 21.

However, the current section 713(c) of the appropriations bill contains a section which permits the President to increase the numbers of men beyond the numbers that can be paid by the appropriations in the present bill. This creates some confusion and to avoid that confusion, our amendment would simply state that the permission given to the President to increase the number of active duty personnel is subject to the provisions of the draft bill. In that way, there is no way in which he can violate the ceilings on the active duty force without coming to Congress for approval.

This reinforces the congressional intent to limit Presidential discretion—in the absence of an emergency—to increase the size of the Armed Forces. It does so without affecting his ability to respond to emergencies by calling up the Reserves.

The reasons I gave then for proposing the amendment to limit Presidential discretion perhaps should be repeated.

We have seen the history of our past involvement in Vietnam and the steady rise in the number of draftees and the size of the Armed Forces over the past 7 years. This escalation occurred without the check of periodic congressional votes on the rising number of inductees and the rising size of the Armed Forces.

We have been virtual bystanders as the number of draftees soared, as the size of the Armed Forces rose, and as the number of American deaths passed 45,500.

We have been permitted to receive only those documents and those messages that would vindicate the foreign policy decisions already made by the Executive.

And we have watched uncomfortably as congressional influence in the design and execution of American foreign policy has dissolved.

Our action in establishing absolute congressionally mandated ceilings reflects a restoration of congressional involvement in foreign policy decisionmaking.

Reasserting the responsibility of the Congress to establish the size of the Armed Forces also reflects a reassertion of the Constitution.

Article 1, section 8, of the Constitution provides:

> The *Congress* shall have power to . . . raise and support armies . . . to provide and maintain a Navy . . . to make rules for the government and regulation of the land and naval forces.

Thus, this action in the draft bill to establish congressionally mandated levels for the Armed Forces represents a recognition that the administration's request for military manpower must be treated as a request, with the final decisionmaking power assigned by the Constitution to the Congress.

This is not to say that in an emergency situation the President's hands are bound. He has the power, given to him by the Congress, to call up the Reserves in case of emergencies.

The concept of a reserve force capable of responding to national emergencies is in keeping with our historic reliance on the citizen-soldier. But again, it is only in the case of a national emergency and reports must be made to the Congress on the use of those Reserves.

In this way, I believe the amendments which I introduced and which were enacted into law represent a reassertion of congressional responsibility for the size and method of raising the Armed Forces. I believe that purpose was accomplished without curtailing the President's ability to respond to emergencies.

And now with the amendment presented today, we are assured that those goals will not be lost. Therefore, I strongly urge the Senate to accept the amendment now before it to require that the ceilings established in the draft bill remain in force.

Mr. ELLENDER. Mr. President, there is no objection to the amendment.

Mr. STENNIS. Mr. President, I yield back the remainder of my time.

Mr. ELLENDER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Mississippi.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD, reads as follows:

On page 49, between lines 21 and 22, insert a new title as follows:

TITLE IX—DISPOSITION OF SURPLUS MILITARY EQUIPMENT IN VIETNAM

SEC. 901. (a) There is established in the Department of Defense an office known as the Office of Vietnam War Surplus, hereinafter in this title referred to as the "Office", which shall be headed by a civilian appointed by the Secretary. The head of such office shall be directly responsible to the Secretary of Defense.

(b) Notwithstanding any other provisions of law, it shall be the function of the Office to—

(1) determine the kinds and amount of equipment and materials owned by the Department of Defense in South Vietnam and which is no longer necessary for the use of the Armed Forces of the United States in Vietnam;

(2) assess and evaluate such equipment and material for the purpose of determining whether it can be used by Federal, state, or local governments in the United States or by private enterprises or persons in the United States in either urban or rural areas;

(3) serve as a central office for the disposition of all such equipment and materials;

(4) make such equipment and materials available to other departments and agencies of the Federal government and to state and local governments without charge;

(5) make such equipment and materials available without charge to private nonprofit organizations determined by the Secretary of Defense, after consultation with the Secretary of Health, Education and Welfare, the Secretary of Housing and Urban Affairs, the Secretary of Agriculture, and the Director of the Office of Economic Opportunity to be engaged in programs of urban or rural development or programs of assistance to low income persons.

SEC. 902. The Secretary of Defense shall submit a written report to the Congress within 90 days after the date of enactment of this title indicating what action has been taken to carry out the provisions of this title. He shall include in such report such recommendations for legislation as he deems appropriate for the improvement of the program provided for herein.

Mr. HUMPHREY. Mr. President, I will take just a moment to discuss the amendment. I will read some of its contents because it explains itself.

I have asked in the amendment that there be established in the Department of Defense an office to be known as the Office of Vietnam War Surplus, hereinafter in this title referred to as the "Office," which shall be headed by a civilian appointed by the Secretary. The function of the Office shall be to—

First. Determine the kinds and amounts of equipment and materials owned by the Department of Defense in South Vietnam and which is no longer necessary for the use of the Armed Forces of the United States in Vietnam;

Second. Assess and evaluate such equipment and material for the purpose of determining whether it can be used by Federal, State, or local governments in the United States or by private enterprises or persons in the United States in either urban or rural areas;

Third. Serve as a central office for the disposition of all such equipment and materials;

Fourth. Make such equipment and materials available to other departments and agencies of the Federal Government and to State and local governments without charge;

Fifth. Make such equipment and materials available without charge to private nonprofit organizations determined by the Secretary of Defense, after consultation with the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Office of Economic Opportunity, to be engaged in programs of urban or rural development or programs of assistance to low-income persons.

Section 902: The Secretary of Defense shall submit a written report to the Congress within 90 days after the date of enactment of this title indicating what action has been taken to carry out the provisions of this title. He shall include in such report such recommendations for legislation as he deems appropriate for the improvement of the program provided for herein.

The purpose of the amendment is quite clear. We have immense amounts of material that are going into surplus as we withdraw from Vietnam. Some of that will obviously be made available to the Government of South Vietnam. Other parts of it will be in surplus.

We have tracks, jeeps, trucks, bulldozers, and vast amounts of metallic products, items that can be used and would be of great help to our own people, particularly those in low-income areas and community action projects and municipalities.

I realize, of course, that we have a surplus disposal program. However, I want to be sure that the first priority on the use of these surplus products is for the people of the United States insofar as it is possible to make it available for them.

I recognize that some of it would not be shipped back. It might be uneconomic to make it available. However, where it is economically advisable to do so, I would hope that we might be able to expedite this specal use.

Mr. President, I offer the amendment on behalf of myself and my distinguished colleague, the senior Senator from Minnesota. I know that serious consideration is being given to this sort of project within some of the agencies of our Federal Government. It seems to me that we in the Senate and in the House of Representatives ought to express our interest in it and also assent and consent to whatever may develop.

Mr. President, I have no other argument to make, because I think on its face it makes great and good sense. The question is whether we will use this material which can be made available economically or leave it, as has happened in many other instances with people who will not care for it, who will not put it to its proper use. It can be used to great advantage in the localities of the countries and cities and towns and counties of our country that have serious financial needs and that need every bit of help they can get.

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

Mr. HUMPHREY. I yield.

Mr. STEVENS. Mr. President, does the Senator desire to establish a priority under the department for the disposal of surplus property in the Department of Defense?

Mr. HUMPHREY. If we place the main responsibility in the Secretary of Defense. However, he would be able to delegate that for himself; he would declare that which he deems to be surplus.

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

Mr. ELLENDER. Mr. President, I wish to make a point of order that this is legislation pure and simple and is contrary to rule XVI of the Rules of the Senate.

The PRESIDING OFFICER. The Chair has examined the amendment and finds it is legislative in intent and under rule XVI it would be out of order.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that it be considered to be in order since it relates to surplus in the Department of Defense and property that should be used for public purposes.

Mr. GRIFFIN. I object.

The PRESIDING OFFICER. Objection is heard.

Without objection, the action of the Senate striking the committee amendment on page 48, beginning on line 24, will have no effect on the committee amendment striking out lines 20 through 23 on the same page.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 11731) was read the third time.

LET US GET STARTED NOW ON THE AIR FORCE LIGHTWEIGHT FIGHTER

Mr. PROXMIRE. Mr. President, for the last few years everyone has been giving lip service to the need for a new "Fly Before You Buy" weapons acquisition policy. Yet concurrency between development and production remains the rule on most new systems and, with the exception of the A–X, there have been no new competitive development programs in the past several years.

Against this background, the new advanced prototype program announced earlier this year by Deputy Defense Secretary Packard seemed a welcome development indeed. Each of the three services had agreed to initiate a series of prototype development programs, many of them competitive, on which no production decisions would be made until development had been completed.

PROTOTYPE PROBLEMS

It seemed like the first small step in a new direction. But how badly we have stumbled in its taking. Now, less than 6 months after the program was announced, no funds are earmarked for it in this bill and its future is very much in doubt. The reasons why, in retrospect, are clear.

For one thing, the military services had only a limited enthusiasm for the new plan. Oh, they were for it all right, if it would alleviate congressional criticisms of their standard procurement policies and if they were given extra funds—above those requested in original budget submissions—for the new prototype projects. But they were not anxious to take prototype money out of their own hides.

And Secretary Packard's own commitment to the program was ambivalent. Inside the Pentagon, he was quite willing to "sell" the services on the idea of getting more money for additional projects not covered in their budgets; but he was not about to assert his manager's prerogative and demand that priorities for prototypes be established. On the Hill, meanwhile, he extolled the virtues of the new program and hinted that more funds would be useful; but he never made a formal budget request for the extra $67.5 million the prototype projects would cost, perhaps in embarassment over the $7.9 billion request for new research funds already pending before the Congress.

In addition, some of the prototype projects themselves were suspect. The House Appropriations Committee expressed disappointment that "the prototyping concept was not applied to some of the higher priority existing development efforts" already included in the Pentagon's budget and noted that some of the projects to which it was applied were "low priority programs similar to other programs which have been discussed for some years but have not received funding because of the many higher priority efforts which absorbed the available funds."

For all these reasons, the funds provided for Secretary Packard's prototype program have dwindled steadily as it has passed through the legislative process. The Senate-House conference committee on the military procurement bill provided only $34 million specifically earmarked for the $67.5 million program. This sum was cut to $12 million by the House Appropriations Committee. And

funds were eliminated altogether by our own Appropriations Committee in its markup on this bill.

JUSTIFIED CRITICISM

On balance, I agree with the critical appraisal these committees have made of the Packard prototype program. It has not given prototyping the priority it needs within the Department of Defense. And unless it gets that priority, any funds provided by the Congress could be money down the drain, money earmarked for the kind of low priority defense needs to which the House Appropriations Committee referred.

I am also pleased to note the warm endorsement these committees gave to the basic prototyping concept, notwithstanding their criticism of the specific Packard package. And this endorsement has been translated into effective action by the committees' welcome call for a competitive prototype development approach both to the Air Force Subsonic Cruise Armed Decoy—SCAD—program and to the new replacement for the Army's gold-plated Main Battle Tank.

ONE UNFORTUNATE SIDE EFFECT

But I must object to one unfortunate side effect of the Senate Committee's action on the Packard package—its deletion from the bill of all funds specifically earmarked for the new Air Force lightweight fighter prototype program. Unlike some of the projects in the Packard package, this lightweight fighter is not a low priority program; in fact, it would provide for one of the highest priority procurement needs we face at the present time.

We are now embarked on the development and procurement of two very complex and very expensive air superiority fighters—the F–14 and the F–15. The issue is not simply whether we need both these aircraft. Let us assume here that we do. The fact remains that we will never be able to buy them in anywhere near the numbers needed to maintain the present size of our fighter force structure.

Let us look briefly at the facts. The F–14 is now estimated to cost $16.7 million per copy, an estimate which is likely to rise when a Grumman bail-out occurs and when the "B" engine is added to the plane. Yet even at its present estimate, the F–14 costs three to four times the cost of the F–4's it is replacing. Under these circumstances, there is no way we could hope to replace with F–14's on a 1-to-1 basis the 1,500 fighter aircraft purchased for the current generation of Navy-Marine Corps fighters. In fact, the Navy is presently planning on a far more realistic 300 aircraft buy.

And the situation in the Air Force is not much different. The F–15 is presently budgeted at only twice the cost of an F–4, but this ratio is likely to increase before we go too far. And whatever the final ratio turns out to be, it is sure to be so high that a 1-to-1 replacement of the almost 3,000 current Air Force fighters in the inventory is far beyond the realm of hope.

A SIMPLE ALTERNATIVE

These economic facts of life present us with a simple alternative—either we supplement the F–14's and F–15's in our inventory with high performance lightweight fighters or we dangerously jeopardize our security.

The Senate Armed Services Committee summed it up in reporting out its authorization bill:

> If we can afford a permanent force structure of only one-fifth as many fighter aircraft or tanks as our potential adversaries—because our systems are about five times as expensive as theirs—then a future crisis may find us at a sharp numerical disadvantage.

And the House Appropriations Committee echoed the thought:

> The Committee has been deeply concerned about the very great cost of producing new fighter aircraft which are now costing in the vicinity of $15 million per copy and feels that we must try to develop viable, small, lightweight fighter aircraft so that our forces will not be overwhelmed by vastly superior numbers of enemy aircraft.

Mr. President, the need for a new light weight fighter is universally recognized. And the Air Force has initiated a lightweight fighter program, for which $10 million was requested informally for fiscal 1972. But there is no money earmarked for that lightweight fighter in this Appropriations bill, and in the House bill there is only $6 million so identified.

I recognize that there was no formal request for these funds, but are we in Congress to allow an act of omission in the executive branch to determine our response to this clear-cut military need?

Are we going to go on spending $2 billion annually on the F–14 and F–15 while failing to spend the $90 million needed over the next 3 years for a lightweight fighter competitive prototype development program?

Mr. President, it is late in this session and there is much important business waiting to be conducted. Accordingly, I do not propose to take up the Senate's time with a formal amendment on the lightweight fighter issue. I sincerely hope, however, that our conferees on this bill will recognize the widespread interest which has been shown—both in the Armed Services Committee and on the Senate floor—in moving ahead now with a lightweight fighter program. I hope that they will accede to the House position on this issue. And I hope that the Air Force would then reprogram the $2 to $4 million which might be needed in addition to move out on the lightweight fighter according to its present plans. I would note in this regard that Mr. Packard in a letter to the distinguished Senator from Mississippi (Mr. STENNIS) dated November 19, has given assurances that he intends to support this program with whatever reprogramed funds are needed during fiscal 1972.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD of Virginia. Mr. President, I have one brief question I wish to address to the distinguished chairman of the Committee on Appropriations.

May I inquire as to the amount of the unfunded military retirement surplus of the Government?

Mr. ELLENDER. The estimated unfunded liability costs for military personnel for fiscal year 1972 is $118.6 billion.

Mr. BYRD of Virginia. The last figure I had was $116 billion.

Mr. ELLENDER. I believe that was the approximate amount for fiscal year 1971.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Louisiana (Mr. LONG), the Senator from Utah (Mr. MOSS), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Mexico (Mr. ANDERSON) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New Hampshire (Mr. COTTON), the Senator from New York (Mr. JAVITS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Maine (Mrs. SMITH) are necessarily absent.

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

The Senator from Ohio (Mr. SAXBE) is absent on official business.

If present and voting, the Senator from Maine (Mrs. SMITH) would vote "yea".

The result was announced—yeas 80, nays 5, as follows:

[No. 396 Leg.]

YEAS—80

Aiken	Ellender	Nelson
Allen	Ervin	Packwood
Allott	Fannin	Pastore
Baker	Fong	Pearson
Bayh	Gambrell	Pell
Bellmon	Griffin	Percy
Bennett	Gurney	Proxmire
Bentsen	Hansen	Randolph
Bible	Hart	Ribicoff
Boggs	Hollings	Roth
Brock	Hruska	Schweiker
Brooke	Hughes	Scott
Buckley	Humphrey	Sparkman
Burdick	Inouye	Spong
Byrd, Va.	Jackson	Stafford
Byrd, W. Va.	Jordan, N.C.	Stennis
Cannon	Jordan, Idaho	Stevens
Case	Kennedy	Symington
Chiles	Magnuson	Taft
Cook	Mathias	Talmadge
Cooper	McClellan	Thurmond
Cranston	McGee	Tower
Curtis	McIntyre	Tunney
Dole	Metcalf	Weicker
Dominick	Miller	Williams
Eagleton	Mondale	Young
Eastland	Montoya	

NAYS—5

Fulbright	Harris	Mansfield
Gravel	Hatfield	

NOT VOTING—15

Anderson	Hartke	Mundt
Beall	Javits	Muskie
Church	Long	Saxbe
Cotton	McGovern	Smith
Goldwater	Moss	Stevenson

So the bill (H.R. 11731) was passed.

Mr. ELLENDER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ELLENDER. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized in the engrossment of Senate amendments to H.R. 11731 to correct the figure beginning on line 26 on page 23 and line 1 on page 24 to $2,352,319,000 and correct the figure in the amendment by the Senator from Colorado from $2,293,619,000 to $2,352,-319,000.

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

Mr. ELLENDER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. ELLENDER, Mr. MCCLELLAN, Mr. STENNIS, Mr. PASTORE, Mr. SYMINGTON, Mr. YOUNG, Mrs. SMITH, and Mr. ALLOTT conferees on the part of the Senate.

TRIBUTES TO SENATOR ELLENDER, SENATOR YOUNG, AND OTHERS ON PASSAGE OF DEFENSE APPROPRIATIONS

Mr. MANSFIELD. Mr. President, once again the distinguished senior Senator from Louisiana (Mr. ELLENDER), the able chairman of the Committee on Appropriations, has demonstrated his outstanding legislative skill and ability by steering this enormous funding measure through the committee and to successful Senate consideration on the floor today. Senator ELLENDER has performed again the outstanding public service that has marked his long and illustrious career in this body.

It must be said that no item contained in this highly complex proposal was inserted without his full and personal understanding and appreciation for its consequences and impact.

The Senate and the American people may rest assured that their defense dollar under the supervision of Senator ELLENDER is being spent as effectively as possible. We are deeply grateful.

The Senate is grateful as well for the efforts of the distinguished senior Senator from North Dakota (Mr. YOUNG). His contributions and splendid cooperation as the ranking minority member of the committee were indispensable to this overwhelming success. Senator YOUNG assured expeditious and efficient consideration. This is only typical of his many contributions.

To those Senators who offered amendments we are particularly grateful. Of special note was the contribution of the distinguished Senator from Missouri (Mr. SYMINGTON). By raising a most significant issue of intelligence he has called attention to a matter of immense importance. He has raised an issue which is just now in its infancy, but which in time I am confident will grow to enormous proportions. It is time, in my judgment, that we take a long, hard look at our intelligence community, its function and objectives.

Other Senators also are to be commended. The distinguished Senator from Washington (Mr. JACKSON), the distinguished Senator from Mississippi (Mr. STENNIS), and many others joined to assure full consideration of this most important funding measure.

To the Senate I am personally grateful. Especially do I appreciate the cooperation of every Member in coming in early and staying late to complete action on the Nation's business.

CREDIT UNION SHARE INSURANCE AMENDMENTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 438, H.R. 9961. I do this so that it will be the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill by title, as follows: A bill (H.R. 9961) to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the Proxmire amendment, on which the Senate had previously granted 2 hours of debate, the time be reduced to 1 hour under the same circumstances.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROGRAM

Mr. MANSFIELD. Mr. President, there undoubtedly will be a rollcall vote on the Proxmire amendment, which I anticipate will come around the hour of 10:30 a.m.

Following disposition of H.R. 9961, the Senate will turn to the consideration of Calendar No. 439, H.R. 9727, a bill to regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes. I understand that there is a distinct possibility that there will be a rollcall vote on that bill.

Following the disposition of that bill, the higher education bill will be taken up. Whether or not there will be votes on that, I am certain there will be a certain amount of colloquy.

ORDER TO ADD NAME OF SENATOR WILLIAMS TO INDIVIDUAL VIEWS IN SENATE REPORT 507

Mr. MANSFIELD. Mr. President, I ask unanimous consent to add the name of Senator WILLIAMS to the individual views contained in the report (Rept. No. 507) of the Senate Committee on Banking, Housing, and Urban Affairs on S. 2891, the Economic Stabilization Act Amendments.

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

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971—AMENDMENT

AMENDMENT NO. 751

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. DOLE, Mr. ERVIN, Mr. COOK, Mr. JORDAN of North Carolina, Mr. GRAVEL, Mr. EAGLETON, Mr. MONDALE, Mr. TUNNEY, Mr. MCINTYRE, and Mr. MCGEE) submitted an amendment intended to be proposed to the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes.

ADDITIONAL COSPONSOR OF A BILL

S. 2767

At the request of Mr. THURMOND, the Senator from Alaska (Mr. STEVENS) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 2767, a bill to authorize nonregular military service personnel to elect retirement as early as age 50.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session.

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

TAX CONVENTION WITH JAPAN; TAX PROTOCOL WITH FRANCE; AND TREATY WITH MEXICO RESOLVING BOUNDARY DIFFERENCES

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Executive O, 91st Congress, second session, Executive E, 92d Congress, first session, and Executive B, 92d Congress, first session.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider Executive O, 91st Congress, second session, the tax protocol with France, Executive E, 92d Congress, first session, the tax convention with Japan, and Executive B, 92d Congress, first session, the treaty with Mexico resolving boundary differences, which were read the second time, as follows:

PROTOCOL TO THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE FRENCH REPUBLIC WITH RESPECT TO TAXES ON INCOME AND PROPERTY OF JULY 28, 1967

The President of the United States of America and the President of the French Republic, desiring to amend the Convention between the United States of America and the French Republic with respect to taxes on income and property of July 28, 1967, have appointed for that purpose as their respective Plenipotentiaries:

The President of the United States of America: William P. Rogers, Secretary of State of the United States of America, and

The President of the French Republic: Charles Lucet, Ambassador Extraordinary and Plenipotentiary of the French Republic at Washington,

who have agreed upon the following provisions:

ARTICLE 1

(1) The following new paragraph (6) shall be added to Article 9 (Dividends) of the Convention:

"(6) (a) A resident of the United States who receives a dividend from a French corporation which, if received by a resident of France would entitle such resident to a tax credit (avoir fiscal), shall be entitled to a payment from the French Treasury equal to such credit (avoir fiscal), subject to the deduction from such payment of withholding tax in the amount provided for in paragraph (2) (a) of this article.

"(b) The provisions of subparagraph (a) shall be applicable to the following residents of the United States:

"(i) An individual or other person (other than a corporation or an entity treated under United States law as a corporation) who is a resident of the United States;

"(ii) A corporation which is not a regulated investment company and which, within the meaning of the provisions of the United States Internal Revenue Code providing a credit for taxes paid by a foreign corporation, owns less than 10 percent of the voting stock of the French corporation referred to in subparagraph (a); or

"(iii) A corporation which is a regulated investment company owning less than 10 percent of the voting stock of the French corporation referred to in subparagraph (a) and which has less than 20 percent of its shares owned by persons who are neither citizens nor residents of the United States.

"(c) The payment provided for under subparagraph (a) shall be deemed to be a distribution by the French corporation.

"(d) The competent authorities may prescribe regulations to implement the provisions of this paragraph and further define and determine the terms and conditions under which any payment provided for in subparagraph (a) may be made."

(2) Paragraph (3) of Article 9 of the Convention shall be amended to read as follows:

"(3) Paragraphs (2) and (6) of this article and, in the case of dividends derived by a resident of France, paragraph (1) of this article, shall not apply if the recipient of the dividends has a permanent establishment in the other Contracting State and the shares with respect to which the dividends are paid effectively connected with the permanent establishment. In such a case, the provisions of Article 6 shall apply."

(3) Paragraph (5) of Article 9 of the Convention shall be amended to read as follows:

"(5) When the prepayment (précompte) is levied by reason of dividends paid by a French corporation to a resident of the United States, who is not entitled to the payment described in paragraph (6) with respect to such dividends, such resident shall be entitled to the refund of that prepayment, subject to deduction of the withholding tax with respect to the refunded amount in accordance with paragraph (2) of this article."

ARTICLE 2

This Protocol shall be ratified and instruments of ratification shall be exchanged at Paris. It shall enter into force one month after the date of exchange of the instruments of ratification.

Its provisions shall for the first time have effect for dividends declared on or after the first day of January 1970.

ARTICLE 3

This Protocol shall remain in force as long as the Convention between the United States of America and the French Republic with respect to taxes on income and property of July 28, 1967 shall remain in force.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the present Protocol and affixed thereto their seals.

DONE at Washington in duplicate in the English and French languages, both texts being equally authoritative, the 12th day of October 1970.

For the President of the United States of America:

[SEAL] WILLIAM P. ROGERS

For the President of the French Republic:

[SEAL] CHARLES LUCET

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The United States of America and Japan,

Desiring to conclude a new convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed upon the following articles:

ARTICLE 1

(1) The taxes which are the subject of this Convention are:

(a) In the case of the United States, the Federal income taxes imposed by the Internal Revenue Code, hereinafter referred to as "United States tax", and

(b) In the case of Japan, the income tax and the corporation tax, hereinafter referred to as "Japanese tax".

(2) This Convention shall also apply to taxes substantially similar to those covered by paragraph (1) of this article which are imposed in addition to, or in place of, existing taxes after the date of signature of this Convention.

(3) For the purpose of Article 7, this Convention shall also apply to taxes of every kind imposed by a Contracting State or a political subdivision or local authority thereof. For the purpose of Article 26, this Convention shall also apply to taxes of every kind imposed by a Contracting State.

ARTICLE 2

(1) In this Convention, unless the context otherwise requires:

(a) The term "United States" means the United States of America and, when used in a geographical sense, means the states thereof and the District of Columbia.

(b) The term "Japan", when used in a geographical sense, means all the territory in which the laws relating to Japanese tax are in force.

(c) The term "a Contracting State" or "the other Contracting State" means the United States or Japan, as the context requires.

(d) The term "person" means an individual, a corporation, or any other body of persons.

(e) (i) The term "United States corporation" means a corporation which is created or organized under the laws of the United States or any state thereof or the District of Columbia, or any unincorporated entity treated as a United States corporation for purposes of United States tax; and

(ii) The term "Japanese corporation" means a juridical person which has its head or main office in Japan or any organization without juridical personality treated for purposes of Japanese tax as a Japanese juridical person.

(f) The term "competent authority" means:

(i) In the case of the United States, the Secretary of the Treasury or his delegate, and

(ii) In the case of Japan, the Minister of Finance or his authorized representative.

(g) The term "citizen" means:

(i) In the case of the United States, a citizen of the United States, and

(ii) In the case of Japan, a national of Japan

(2) As regards the application of this Convention by a Contracting State, any term used in this Convention and not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

ARTICLE 3

In this Convention:

(1) The term "resident of Japan" means:

(a) A Japanese corporation, or

(b) Any other person resident in Japan for purposes of Japanese tax.

(2) The term "resident of the United States" means:

(a) A United States corporation, or

(b) Any other person (except a corporation or any entity treated under United States law as a corporation) resident in the United States for purposes of United States tax, but in the case of an estate or trust only to the extent that the income derived by such person is subject to United States tax as the income of a resident.

(3) An individual who is a resident of both Contracting States shall be deemed to be a resident of that Contracting State in which he maintains his permanent home. If he has a permanent home in both Contracting States or in neither Contracting State, he shall be deemed to be a resident of that Contracting State with which his personal and economic relations are closest (center of vital interests). If the Contracting State in which he has his center of vital interests cannot be determined, he shall be deemed to be a resident of that Contracting State in which he has a habitual abode. If he has a habitual abode in both Contracting States or in neither Contracting State, he shall be deemed to be a resident of that Contracting State of which he is a citizen. If he is a citizen of both Contracting States or of neither Contracting State, the competent authorities of the Contracting States shall settle the question by mutual agreement. An individual who is deemed to be a resident of a Contracting State and not a resident of the other Contracting State by reason of the provisions of this paragraph shall be deemed to be a resident of the first-mentioned Contracting State for all purposes of this Convention, including Article 4.

ARTICLE 4

(1) A resident of a Contracting State may be taxed by the other Contracting State on any income from sources within that other Contracting State and only on such income, subject to any limitations set forth in this Convention. For this purpose, the rules set forth in Article 6 shall be applied to determine the source of income.

(2) The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded—

(a) By the laws of a Contracting State in the determination of the tax imposed by that Contracting State, or

(b) By any other agreement between the Contracting States.

(3) Except to the extent provided in paragraph (4) of this article, this Convention shall not affect the taxation by a Contracting State of its residents (and, in the case of the United States, its citizens).

(4) The provisions of paragraph (3) of this article shall not affect:

(a) The benefits provided under Articles 5, 7, 21, and 25; and

(b) The benefits provided under Articles 19, 20, and 22, but in the case of benefits conferred by the United States only if the person claiming the benefits neither is a citizen of, nor has immigrant status in, the United States.

(5) There shall be allowed, for purposes of United States tax, in the case of a resident of Japan who is not a resident of the United States (other than an officer or employee of the Government of Japan or local authority thereof), in addition to the deduction for one personal exemption provided in section 873 of the United States Internal Revenue Code as in effect on the first day of December 1968, a deduction for personal exemptions, subject to the conditions prescribed in sections 151 through 154 of the Internal Revenue Code as in effect on the said date, for the spouse of the taxpayer and for each child of the taxpayer present in the United States and residing with him in the United States at any time during the taxable year, but such additional deduction shall not exceed that proportion thereof which the taxpayer's gross income from sources within the United States which is treated as effectively connected with the conduct of a trade or business within the United States within the meaning of section 864(c) of the Internal Revenue Code for the taxpayer's taxable year bears to his entire income from all sources for such taxable year.

(6) The United States may impose its personal holding company tax and its accumulated earnings tax notwithstanding any provision of this Convention. However, a Japanese corporation shall be exempt from the United States personal holding company tax in any taxable year if all of its stock is owned, directly or indirectly, by one or more individuals who are residents of Japan (and not citizens of the United States) for that entire year. A Japanese corporation shall be exempt from the United States accumulated earnings tax in any taxable year unless such corporation is engaged in trade or business in the United States through a permanent establishment at any time during such year.

(7) Where, pursuant to any provision of this Convention, a Contracting State reduces the rate of tax on, or exempts from tax, income of a resident of the other Contracting State and under the law in force in that other Contracting State the resident is subject to tax by that other Contracting State only on that part of such income which is remitted to or received in that other Contracting State and under the law in force in that other Contracting State the resident is subject to tax by that other Contracting State, then the reduction or exemption shall apply only to so much of such income as is remitted to or received in that other Contracting State.

ARTICLE 5

(1) Double taxation of income shall be avoided in the following manner:

(a) In accordance with the provisions of the law of the United States, as in force from time to time, regarding the allowance of a credit against United States tax of tax payable in any country other than the United States, the United States shall allow to a citizen or resident of the United States as a credit against United States tax the appropriate amount of Japanese tax and, in the case of a United States corporation owning at least 10 percent of the voting power of a Japanese corporation from which it receives dividends, shall allow credit for the appropriate amount of Japanese tax paid by the Japanese corporation paying such dividends with respect to the profits out of which such dividends are paid. For the purpose of applying the United States credit in relation to taxes paid to Japan, the rules set forth in Article 6 shall be applied to determine the source of income.

(b) In accordance with the provisions of the laws of Japan, as in force from time to time, regarding the allowance of a credit against Japanese tax of tax payable in any country other than Japan, Japan shall allow to a resident of Japan as a credit against Japanese tax the appropriate amount of United States tax and, in the case of a Japanese corporation owning at least 10 percent of the voting shares of a United States corporation from which it receives dividends, shall allow credit for the appropriate amount of United States tax paid by the United States corporation paying such dividends with respect to the profits out of which such dividends are paid. For the purpose of applying the Japanese credit in relation to taxes paid to the United States, the rules set forth in Article 6 shall be applied to determine the source of income.

(2) The tax of a Contracting State which shall be credited by the other Contracting State in accordance with this article shall include any tax on income on profits imposed by any political subdivision or any local authority of the first-mentioned Contracting State.

ARTICLE 6

For purposes of this Convention:

(1) Dividends shall be treated as income from sources within a Contracting State only if paid by a corporation of that Contracting State.

(2) Interest shall be treated as income from sources within a Contracting State only if paid by that Contracting State, a political subdivision or local authority thereof, or by a resident of that Contracting State. Notwithstanding the preceding sentence, if the person paying the interest (other than interest paid on indebtedness incurred in connection with the purchase of ships or aircraft)—

(a) Whether or not such person is a resident of a Contracting State, has a permanent establishment in a Contracting State in connection with which the indebtedness on which the interest is paid was incurred and such interest is borne by such permanent establishment, or

(b) Is a resident of a Contracting State and has a permanent establishment in a State other than the Contracting States in connection with which the indebtedness on which the interest is paid was incurred and such interest is borne by such permanent establishment,

such interest shall be deemed to be from sources within the State in which the permanent establishment is located.

(3) Royalties for the use of, or the right to use, property (other than ships or aircraft) or rights described in paragraph (3)(a) of Article 14, and gains to the extent that they are contingent on the productivity, use, or disposition of such property or rights described in paragraph (3)(b) of Article 14, shall be treated as income from sources within a Contracting State only if the royalties, or the amount realized on the sale, exchange, or other disposition from which the gain is derived is paid for the use of, or the right to use, such property or rights within that Contracting State.

(4) Income from real property, including royalties in respect of the operation of mines or quarries, or the exploitation of any natural resources and gains derived from the sale exchange, or other disposition of such property or of the right giving rise to such royalties, shall be treated as income from sources within a Contracting State only if such property is situated in that Contracting State.

(5) Income from the rental of tangible personal property (other than from the rental of ships or aircraft) shall be treated as income from sources within a Contracting State only if such property is situated in that Contracting State. Income from the rental of ships or aircraft derived by a person not engaged in the operation of ships or aircraft in international traffic shall be treated as income from sources within a Contracting State only if the lessee is a resident of that Contracting State.

(6) Income (other than directors' fees described in paragraph (5) of Article 18) received by an individual for his performance of labor or personal services whether as an employee or in an independent capacity shall be treated as income from sources within a Contracting State only if such services are performed in that Contracting State. Income from labor or personal services performed aboard ships or aircraft operated by a resident of a Contracting State in international traffic shall be treated as income from sources within that Contracting State, if rendered by a member of the regular complement of the ship or aircraft. For purposes of this paragraph, income from labor or personal services includes pensions (as defined in paragraph (2) of Article 23) paid in respect of such services. Notwithstanding the preceding provisions of this paragraph, remuneration described in Article 21 shall be treated as income from sources within a Contracting State only if paid by, or out of the funds to which contributions are made by, that Contracting State or a political subdivision or local authority thereof. Directors' fees described in paragraph (5) of Article 18 shall be treated as income from sources within a Contracting State only if the corporation of which the individual is a director is a corporation of that Contracting State.

(7) Income from the purchase and sale of personal property (other than gains defined as royalties in paragraph (3)(b) of Article 14) shall be treated as income from sources within a Contracting State only if such property is sold in that Contracting State.

(8) Notwithstanding paragraphs (1) through (7) of this article, industrial or commercial profits which are attributable to a permanent establishment which the recipient, being a resident of a Contracting State, has in the other Contracting State, including income derived from real property and natural resources and dividends, interest, royalties (as defined in paragraph (3) of Article 14), and capital gains, but only if the property or rights giving rise to such income, dividends, interest, royalties, or capital gains are effectively connected with such permanent establishment, shall be treated as income from sources within that other Contracting State. To determine whether property or rights are effectively connected with a permanent establishment, the factors taken into account shall include whether the property or rights are used in or held for use in carrying on industrial or commercial activity through such permanent establishment, and whether the activities carried on through such permanent establishment were a material factor in the realization of the income derived from such property or rights. For this purpose, due regard shall be given to whether or not such property or rights or such income were accounted for through such permanent establishment.

(9) The source of any item of income to which paragraphs (1) through (8) of this article are not applicable shall be determined by each of the Contracting States in accordance with its own law.

ARTICLE 7

(1) A citizen of a Contracting State who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes

than a citizen of that other Contracting State who is a resident thereof.

(2) A permanent establishment which a resident of a Contracting State has in the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than a resident of that other Contracting State carrying on the same activities. This paragraph shall not be construed as obliging a Contracting State to grant to individual residents of the other Contracting State any personal allowances, reliefs, and deductions for taxation purposes on account of civil status or family responsibilities which it grants to its own individual residents.

(3) A corporation of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which a corporation of the first-mentioned Contracting State carrying on the same activities, the capital of which is wholly owned or controlled by one or more residents of the first-mentioned Contracting State, is or may be subjected.

ARTICLE 8

(1) Industrial or commercial profits of a resident of a Contracting State shall be exempt from tax by the other Contracting State unless such resident is engaged in industrial or commercial activity in that other Contracting State through a permanent establishment situated therein. If such resident is so engaged, tax may be imposed by that other Contracting State on the industrial or commercial profits of such resident but only on so much of such profits as are attributable to the permanent establishment.

(2) Where a resident of a Contracting State is engaged in industrial or commercial activity in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to the permanent establishment the industrial or commercial profits which would be attributable to such permanent establishment if such permanent establishment were an independent entity engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the resident of which it is a permanent establishment.

(3) In the determination of the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions expenses which are reasonably connected with such profits, including executive and general administrative expenses, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

(4) No profits shall be attributed to a permanent establishment of a resident of a Contracting State in the other Contracting State merely by reason of the purchase of goods of merchandise by that permanent establishment, or by the resident of which it is a permanent establishment, for the account of that resident.

(5) The term "industrial or commercial profits" includes income derived from manufacturing, mercantile, insurance, agricultural, fishing, or mining activities, from the operation of ships or aircraft, from the furnishing of personal services, and from the rental of tangible personal property (other than ships or aircraft). Such term also includes income derived from real property and natural resources; dividends, interest, royalties (as defined in paragraph (3) of Article 14); and capital gains but only if the right or property giving rise to such income, dividends, interest, royalties, or capital gains is effectively connected with a permanent establishment which the recipient, being a resident of a Contracting State, has in the other Contracting State. Such term does not include—

(a) Income received by an individual as compensation for his personal services either as an employee or in an independent capacity, or

(b) Income derived by a corporation or other entity of a Contracting State from sources within the other Contracting State from furnishing personal services of an individual who does not or would not qualify for exemption under paragraph (2) of Article 18 by reason of paragraph (3) thereof.

ARTICLE 9

(1) For the purpose of this Convention, the term "permanent establishment" means a fixed place of business through which a resident of a Contracting State engages in industrial or commercial activity.

(2) The term "fixed place of business" includes but is not limited to:

(a) A branch;

(b) An office;

(c) A factory;

(d) A workshop;

(e) A warehouse;

(f) A mine, quarry, or other place of extraction of natural resources; and

(g) A building site or construction or installation project which exists for more than 24 months.

(3) Notwithstanding paragraphs (1) and (2) of this article, a permanent establishment shall not include a fixed place of business used only for one or more of the following:

(a) The use of facilities for the purpose of storage, display, or delivery of goods or merchandise belonging to the resident;

(b) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of storage, display, or delivery;

(c) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of processing by another person;

(d) The purchase of goods or merchandise, or the collection of information, for the resident; or

(e) Advertising, the supply of information, the conduct of scientific research, or similar activities which have a preparatory or auxiliary character, for the resident.

(4) A person acting in a Contracting State on behalf of a resident of the other Contracting State, other than an agent of an independent status to whom paragraph (5) of this article applies, shall be deemed to be a permanent establishment in the first-mentioned Contracting State if such person has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts in the name of that resident, unless the exercise of such authority is limited to the purchase of goods or merchandise for that resident.

(5) A resident of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because such resident engages in industrial or commercial activity in that other Contracting State through a broker, general commission agent, or any other agent of an independent status, where such broker or agent is acting in the ordinary course of his business.

(6) The fact that a resident of a Contracting State is a related person with respect to a resident of the other Contracting State or with respect to a person who engages in industrial or commercial activity in that other Contracting State (whether through a permanent establishment or otherwise) shall not be taken into account in determining whether that resident of the first-mentioned Contracting State has a permanent establishment in that other Contracting State.

ARTICLE 10

(1) Notwithstanding Article 8 and Article 16, income which a resident of the United States derives from operation in international traffic of ships or aircraft registered in the United States and gains which a resident of the United States derives from the sale, exchange, or other disposition of ships or aircraft operated in international traffic by such resident and registered in the United States shall be exempt from Japanese tax.

(2) (Notwithstanding Article 8 and Article 16, income which a resident of Japan derives from the operation in international traffic of ships or aircraft which are either registered in Japan or leased by such resident and gains which a resident of Japan derives from the sale, exchange, or other disposition of ships or aircraft operated in international traffic by such resident and registered in the United States shall be exempt from United States tax.

ARTICLE 11

(1) Where a resident of a Contracting State and any other person are related and where such related persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, then any income, deductions, credits, or allowances which would, but for those arrangements or conditions, have been taken into account in computing the income (or loss) of, or the tax payable by, one of such persons, may be allocated and utilized in computing the amount of the income subject to tax and the taxes payable by such resident of that Contracting State.

(2) A person is related to another person if either person owns or controls directly or indirectly the other, or if any third person or persons own or control directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable.

ARTICLE 12

(1) Dividends derived from sources within a Contracting State by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by a Contracting State on dividends derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed—

(a) 15 percent of the gross amount actually distributed; or

(b) When the recipient is a corporation, 10 percent of the gross amount actually distributed if—

(i) During the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10 percent of the voting shares of the paying corporation was owned by the recipient corporation, and

(ii) Not more than 25 percent of the gross income of the paying corporation for such prior taxable year (if any) consists of interest or dividends (other than interest derived from the conduct of a banking, insurance, or financing business and dividends or interest received from subsidiary corporations, 50 percent or more of the outstanding shares of the voting stock of which is owned by the paying corporation at the time such dividends or interest is received).

(3) Paragraph (2) of this article shall not apply if the recipient of the dividends, being a resident of a Contracting State, has a permanent establishment in the other Contracting State and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment.

ARTICLE 13

(1) Interest derived from sources within a Contracting State by a resident of the other Contracting State may be taxed by both Contracting States.

(2) Notwithstanding paragraph (1) of this

article, interest derived from sources within the United States by the Bank of Japan or by the Export-Import Bank of Japan, or by any resident of Japan with respect to debt obligations guaranteed or indirectly financed by either of such banks or with respect to debt obligations insured by the Government of Japan pursuant to the Law concerning Export Insurance of March 31, 1950 (Law No. 67), shall be exempt from United States tax.

(3) Notwithstanding paragraph (1) of this article, interest derived from sources within Japan by any Federal Reserve Bank in the United States or by the Export-Import Bank of the United States, or by any resident of the United States with respect to debt obligations guaranteed or insured or indirectly financed by any of such banks, shall be exempt from Japanese tax.

(4) The rate of tax imposed by a Contracting State on interest derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed 10 percent.

(5) Paragraphs (2), (3), and (4) of this article shall not apply if the recipient of the interest, being a resident of a Contracting State, has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected with such permanent establishment.

(6) Where any interest paid by a person to any related person exceeds an amount which would have been paid to an unrelated person, the provisions of this article shall apply only to so much of the interest as would have been paid to an unrelated person. In such a case, the excess payment may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable.

(7) The term "interest", as used in this Convention, means income from bonds, debentures, Government securities, notes, or other evidences of indebtedness, whether or not secured, and whether or not carrying a right to participate in profits, and debt-claims of every kind, as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income has its source.

ARTICLE 14

(1) Royalties derived from sources within a Contracting State by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by a Contracting State on royalties derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed 10 percent.

(3) The term "royalties", as used in this article, means—

(a) Payment of any kind made as consideration for the use of, or the right to use, copyrights of literary, artistic, scientific works, or motion picture films or films or tapes used for radio or television broadcasting, patents, designs or models, plans, secret processes or formulae, trademarks, or other like property or rights, or know-how, or ships or aircraft (but only if the lessor is a person not engaged in the operation in international traffic of ships or aircraft), and

(b) Gains derived from the sale, exchange, or other disposition of any property or rights referred to in subparagraph (a) of this paragraph (other than ships or aircraft) to the extent that the amounts realized on such sale, exchange, or other disposition for consideration are contingent on the productivity, use, or disposition of such property or rights.

(4) Paragraph (2) of this article shall not apply if the recipient of the royalty, being a resident of a Contracting State, has in the other Contracting State a permanent establishment and the property or rights giving rise to the royalty are effectively connected with such permanent establishment.

(5) Where any royalty paid by a person to any related person exceeds an amount which would have been paid to an unrelated person, the provisions of this article shall apply only to so much of the royalty as would have been paid to an unrelated person. In such a case, the excess payment may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable.

ARTICLE 15

(1) Income from real property, including royalties in respect of the operation of mines or quarries, or the exploitation of any natural resources and gains derived from the sale, exchange, or other disposition of such property or of the right giving rise to such royalties, may be taxed by the Contracting State in which such real property, mines, quarries, or natural resources are situated. For purposes of this Convention, interest on indebtedness secured by real property or secured by a right giving rise to royalties in respect of the operation of mines or quarries, or the exploitation of any natural resources shall not be regarded as income from real property.

(2) Paragraph (1) of this article shall apply to income derived from the usufruct, direct use, letting, or use in any other form of real property.

ARTICLE 16

Gains from the sale, exchange, or other disposition of capital assets derived by a resident of a Contracting State shall be exempt from tax by the other Contracting State unless—

(1) The gain is derived by a resident of a Contracting State from the sale, exchange, or other disposition of property described in Article 15 situated within the other Contracting State,

(2) The gain arises out of the sale, exchange, or other disposition described in paragraph (3) (b) of article 14,

(3) The recipient of the gain, being a resident of a Contracting State, has a permanent establishment in the other Contracting State and the property giving rise to the gain is effectively connected with such permanent establishment, or

(4) The recipient of the gain, being an individual who is a resident of a Contracting State—

(a) Maintains a fixed base in the other Contracting State for a period or periods aggregating more than 183 days during the taxable year and the property giving rise to such gains is effectively connected with such fixed base, or

(b) Is present in the other Contracting State for a period or periods aggregating more than 183 days during the taxable year.

ARTICLE 17

(1) Income derived by an individual who is a resident of a Contracting State from the performance of personal services in an independent capacity may be taxed by that Contracting State. Except as provided in paragraph (2) of this article, such income shall be exempt from tax by the other Contracting State.

(2) Income derived by an individual who is a resident of a Contracting State from the performance of personal services in an independent capacity in the other Contracting State may be taxed by that other Contracting State, if:

(a) The individual is present in that other Contracting State for a period or periods aggregating more than 183 days in the taxable year, or

(b) The individual maintains a fixed base in that other Contracting State for a period or periods aggregating more than 183 days in the taxable year, but only so much of it as is attributable to such fixed base, or

(c) The individual is a public entertainer, such as a theater, motion picture or television artist, musician, or athlete, and the income is derived from his personal services as such public entertainer, unless such individual is present in that other Contracting State for a period or periods not exceeding a total of 90 days during the taxable year and such income does not exceed 3,000 United States dollars in the aggregate or its equivalent in Japanese yen in the aggregate during the taxable year.

ARTICLE 18

(1) Wages, salaries, and similar remuneration derived by an individual who is a resident of a Contracting State from labor or personal services performed as an employee, including remuneration derived by an officer or a member of the board of directors of a corporation, may be taxed by that Contracting State. Except as provided in paragraph (2) of this article, such remuneration derived from sources within the other Contracting State may also be taxed by that other Contracting State.

(2) Remuneration of the type described in paragraph (1) of this article derived by an individual who is a resident of a Contracting State shall be exempt from tax by the other Contracting State if—

(a) He is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days in the taxable year;

(b) He is an employee of a resident of the first-mentioned Contracting State or of a permanent establishment of a resident of a State other than the first-mentioned Contracting State if such permanent establishment is situated in the first-mentioned Contracting State (such resident, including a corporation or other entity to which the permanent establishment belongs, is referred to in this article as "the employer"); and

(c) The remuneration is not borne as such by a permanent establishment which the employer has in that other Contracting State.

(3) Paragraph (2) of this article shall not apply to remuneration of the type described in paragraph (1) of this article if the individual receiving such remuneration is a substantial owner of the employer and 50 percent or more of the income of the employer for the taxable year from sources within that other Contracting State is derived from furnishing the labor or personal services of one or more individuals (computed without deductions for compensation paid to such individuals) each of whom is a substantial owner of the employer. For purposes of the preceding sentence, an individual shall be treated as the substantial owner of the employer if the employer is a corporation or other entity and such individual—

(a) Owns directly or indirectly 25 percent or more of the total voting power of all classes of stock entitled to vote, or of the total value of all classes of stock, of such corporation or other entity, or

(b) Has directly or indirectly an interest of 25 percent or more in the assets, or has a right to 25 percent or more of the profits of such other entity.

In computing the ownership of an individual, he shall be deemed to own the stock, assets, or rights owned directly or indirectly by his brother, sister, spouse, ancestor, or descendant.

(4) Notwithstanding paragraph (2) of this article, remuneration derived by an individual from the performance of labor or personal services as an employee aboard ships or aircraft operated by a resident of a Contracting State in international traffic shall be exempt from tax by the other Contracting State if such individual is a member of the regular complement of the ship or aircraft.

(5) Notwithstanding paragraph (2) of this article and Article 17, a director's fee derived

by an individual resident of a Contracting State in his capacity as a member of the board of directors of a corporation of the other Contracting State, which cannot be taken as a deduction by the corporation but is treated as being a distribution of profits in that other Contracting State, may be taxed by that other Contracting State.

ARTICLE 19

(1) An individual—

(a) Who is a resident of a Contracting State at the beginning of his visit to the other Contracting State, or

(b) Who was, immediately before receiving the invitation referred to below, exempt from tax in that other Contracting State under paragraph (1)(a) of Article 20,

and who, at the invitation of the Government of that other Contracting State or of a university or other accredited educational institution situated in that other Contracting State, is temporarily present in that other Contracting State for the primary purpose of teaching or engaging in research, or both, at a university or other accredited educational institution shall be exempt from tax by that other Contracting State on his income from personal services for teaching or research at such university or educational institution, for a period not exceeding two years from the date of his arrival or the date he completed the study, training, or research in that other Contracting State with respect to which the exemption in paragraph (1)(a) of Article 20 applied.

(2) This article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 20

(1)(a) An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who is temporarily present in that other Contracting State for the primary purpose of—

(i) Studying at a university or other accredited educational institution in that other Contracting State, or

(ii) Securing training required to qualify him to practice a profession or professional specialty, or

(iii) Studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary, or educational organization,

shall be exempt from tax levied by that other Contracting State with respect to the amounts described in subparagraph (b) of this paragraph for a period not exceeding five taxable years from the date of his arrival in that other Contracting State.

(b) The amounts referred to in subparagraph (a) of this paragraph are—

(i) Gifts from abroad for the purpose of his maintenance, education, study, research, or training;

(ii) The grant, allowance, or award; and

(iii) Income from personal services performed in that other Contracting State in an aggregate amount not in excess of 2,000 United States dollars or its equivalent in Japanese yen for any taxable year.

(2) An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who is temporarily present in that other Contracting State as an employee of, or under contract with, a resident of the first-mentioned Contracting State, for the primary purpose of—

(a) Acquiring technical, professional, or business experience from a person other than that resident of the first-mentioned Contracting State, or

(b) Studying at a university or other accredited educational institution in that other Contracting State,

shall be exempt from tax by that other Contracting State for a period of 12 consecutive months with respect to his income from personal services in an aggregate amount not in excess of 5,000 United States dollars or its equivalent in Japanese yen.

(3) An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who is temporarily present in that other Contracting State for a period not exceeding one year, as a participant in a program sponsored by the Government of that other Contracting State, for the primary purpose of training, research, or study, shall be exempt from tax by that other Contracting State with respect to his income from personal services in respect of such training, research, or study, performed in that other Contracting State in an aggregate amount not in excess of 10,000 United States dollars or its equivalent in Japanese yen.

ARTICLE 21

(1) Wages, salaries, and similar remuneration, including pensions or similar benefits, paid by, or from public funds of, the United States, or a political subdivision or local authority thereof to a citizen of the United States for labor or personal services performed for the United States or for any of its political subdivisions or local authorities in the discharge of governmental functions shall not be subject to Japanese tax, if such individual is not a national of Japan and has not been admitted to Japan for permanent residence.

(2) Wages, salaries, and similar remuneration, including pensions or similar benefits, paid by, or out of funds to which contributions are made by, Japan, or local authority thereof to an individual who is a national of Japan for labor or personal services performed for Japan or for any of its local authorities in the discharge of governmental functions shall not be subject to United States tax, if such individual is not a citizen of the United States and does not have immigrant status in the United States.

ARTICLE 22

(1) Reimbursed travel expenses shall be subject to Articles 17 through 21, but such expenses shall not be taken into account in computing the maximum amount of exemptions specified in paragraph (2) of Article 17 and in Article 20.

(2) If an individual qualifies for benefits under more than one of the provisions of Articles 17 through 21, he may apply those provisions which are most favorable to him. He may not claim benefits under more than one of the provisions of such articles with respect to the same income.

(3) The benefits provided under Article 19 and paragraph (1) of Article 20 shall extend only for such period of time as may be reasonably or customarily required to effectuate the purpose of the visit, but in no case shall any individual have the benefits provided therein nor more than a total of five taxable years from the date of his arrival.

ARTICLE 23

(1) Except as provided in Article 21, pensions and annuities paid to an individual who is a resident of a Contracting State shall be taxable only in that Contracting State.

(2) The term "pensions", as used in this article, includes periodic payments made after retirement or death in consideration for services rendered, or by way of compensation for injuries received, in connection with past employment, including United States and Japanese social security payments.

(3) The term "annuities", as used in this article, includes a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered).

ARTICLE 24

Nothing in this Convention shall affect the fiscal privileges of diplomatic and consular officials under the general rules of international law or under the provisions of special agreements.

ARTICLE 25

(1) Where a resident of a Contracting State considers that the action of one or both of the Contracting States results or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of the Contracting States, present his case to the competent authority of the Contracting State of which he is a resident. Should the resident's claim he considered to have merit by the competent authority of the Contracting State to which the claim is made, it shall endeavor to come to an agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation contrary to the provisions of this Convention.

(2) The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. In particular, the competent authorities of the Contracting States may consult together to endeavor to agree—

(a) To the same attribution of industrial or commercial profits to a resident of a Contracting State and its permanent establishment situated in the other Contracting State;

(b) To the same allocation of income, deductions, credits, or allowances between a resident of a Contracting State and any related person;

(c) To the same determination of the source of particular items of income; or

(d) To the same meaning of any term used in this Convention.

(3) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of this article. When it seems advisable for the purpose of reaching agreement, the competent authorities may meet together for an oral exchange of opinions.

(4) In the event that the competent authorities reach such an agreement, taxes shall be imposed, and refund or credit of taxes shall be allowed, by the Contracting States in accordance with such agreement.

ARTICLE 26

(1) The competent authorities of the Contracting States shall exchange such information as is pertinent to carrying out the provisions of this Convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those (including a court or administrative body) concerned with assessment, collection, enforcement, or prosecution in respect to the taxes which are the subject of this Convention.

(2) In no case shall the provisions of paragraph (1) of this article be construed so as to impose on a Contracting State the obligation—

(a) To carry out administrative measures at variance with the laws or the administrative practice of that Contracting State or the other Contracting State;

(b) To supply particulars which are not obtainable under the laws or in the normal course of the administration of that Contracting State or of the other Contracting State; or

(c) To supply information which would disclose any trade, business, industrial, commercial, or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

(3) The exchange of information shall be either on a routine basis or on request with reference to particular cases. The competent

authorities of the Contracting States shall agree on the list of information which shall be furnished on a routine basis.

(4) The competent authorities of the Contracting States shall notify each other of any amendments of the laws relating to the taxes referred to in paragraph (1) of Article 1 and of the adoption of any taxes referred to in paragraph (2) of Article 1 by transmitting the texts of any amendments or new statutes at least once a year.

(5) The competent authorities of the Contracting States shall exchange the texts of all published material interpreting this Convention under their respective laws, whether in the form of regulations, rulings, or judicial decisions.

ARTICLE 27

(1) Subject to the provisions of paragraph (2) of this article, each of the Contracting States shall endeavor to collect such taxes imposed by the other Contracting State as will ensure that any exemption or reduced rate of tax granted under this Convention by that other Contracting State shall not be enjoyed by persons not entitled to such benefits. The Contracting State making such collections shall be responsible to the other Contracting State for the sums thus collected. The competent authorities of the Contracting States may consult together for the purpose of giving effect to this article.

(2) In no case shall this article be construed so as to impose upon a Contracting State the obligation to carry out administrative measures at variance with the regulations and practices of either Contracting State or which would be contrary to the first-mentioned Contracting State's sovereignty, security, or public policy.

ARTICLE 28

(1) This Convention shall be ratified and instruments of ratification shall be exchanged at Washington as soon as possible. It shall enter into force on the thirtieth day after the day of the exchange of instruments of ratification. Its provisions shall for the first time have effect:

(a) In the case of Japan—

For income derived during any taxable year beginning on or after January 1 of the year next following the year in which this Convention enters into force; and

(b) In the case of the United States—

(i) As respects taxes withheld at source on dividends, interest, royalties, and similar payments, to any obligation to pay such taxes arising on or after January 1 of the year next following the year in which this Convention enters into force; and

(ii) As respects other taxes on income, to taxable years beginning on or after January 1 of the year next following the year in which this Convention enters into force.

(2) The Convention between the United States of America and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Washington, D.C. on April 16, 1954, modified and supplemented by the Protocols signed at Tokyo on May 7, 1960, and August 14, 1962, shall terminate and cease to have effect in respect of income to which this Convention applies under paragraph (1) of this article.

ARTICLE 29

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention at any time after five years from the date on which this Convention enters into force by giving to the other Contracting State notice of termination at least six months before the end of any calendar year through diplomatic channels. In such event, this Convention shall cease to have effect:

(1) In the case of Japan—

For income derived during any taxable year beginning on or after January 1 of the year next following the year in which the notice of termination is given; and

(2) In the case of the United States—

(a) As respects taxes withheld at source on dividends, interest, royalties, and similar payments, on January 1 of the year next following the year in which the notice of termination is given; and

(b) As respects other taxes on income, for any taxable year beginning on or after January 1 of the year next following the year in which the notice of termination is given.

In witness whereof, the undersigned, duly authorized thereto, have signed this Convention.

Done at Tokyo, in duplicate, in the English and Japanese languages, the two texts having equal authenticity, this eighth day of March, 1971.

For the United States of America:
ARMIN H. MEYER. [SEAL]
For Japan:
KIICHI AICHI. [SEAL]

TREATY TO RESOLVE PENDING BOUNDARY DIFFERENCES AND MAINTAIN THE RIO GRANDE AND COLORADO RIVER AS THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES

The United States of America and the United Mexican States,

Animated by a spirit of close friendship and mutual respect and desiring to:

Resolve all pending boundary differences between the two countries,

Restore to the Rio Grande its character of international boundary in the reaches where that character has been lost, and preserve for the Rio Grande and Colorado River the character of international boundaries ascribed to them by the boundary treaties in force,

Minimize changes in the channels of these rivers, and should these changes occur, attempt to resolve the problems arising therefrom promptly and equitably,

Resolve problems relating to sovereignty over existing or future islands in the Rio Grande,

And finally, considering that it is in the interest of both countries to delimit clearly their maritime boundaries in the Gulf of Mexico and in the Pacific Ocean.

Have resolved to conclude this Treaty concerning their fluvial and maritime boundaries and for such purpose have named their plenipotentiaries:

The President of the United States of America, Robert H. McBride, Ambassador of the United States of America to Mexico, and

The President of the United Mexican States, Antonio Carrillo Flores, Secretary of Foreign Relations,

Who, having communicated to each other their respective full powers, found to be in good and due form, have agreed as follows:

ARTICLE I

In order to resolve the pending boundary cases of the Presidio-Ojinaga Tracts, the Horcon Tract, Beaver Island, and islands, in which the territory of one of the Contracting States has been placed on the opposite bank of the Rio Grande, and to restore this river as the international boundary, the United States and Mexico have decided to modify the position of the Rio Grande in certain reaches, in accordance with the following terms:

A. To change the location of a section of the channel of the Rio Grande in the area of the Presidio-Ojinaga Tracts, so as to transfer from the north to the south side of the Rio Grande an area of 1606.19 acres (650 hectares). This relocation shall be effected so that the middle of the new channel follows the alignment shown on the map of the International Boundary and Water Commission, United States and Mexico (hereinafter referred to as the "Commission"), entitled Relocation of the Rio Grande in the Presidio-Ojinaga Tracts, attached to and forming a part of this Treaty.

B. To change the location of the channel of the Rio Grande upstream from and near Hidalgo-Reynosa, so as to transfer from the south to the north of the Rio Grande an area of 481.68 acres (194.93 hectares). This relocation shall be effected so that the middle of the rectified channel follows the alignment shown on the Commission's map entitled Relocation of the Rio Grande Upstream from Hidalgo-Reynosa, attached to and forming a part of this Treaty.

C. To change the location of the channel of the Rio Grande downstream from and near Presidio-Ojinaga, so as to transfer from the south to the north of the Rio Grande an area of 252 acres (101.98 hectares). This relocation shall be effected so that the middle of the rectified channel follows the alignment shown on the Commission's map entitled Relocation of the Rio Grande Downstream from Presidio-Ojinaga, attached to and forming a part of this Treaty.

D. Once this Treaty has come into force and the necessary legislation has been enacted for carrying it out, the two Governments shall determine, on the basis of a recommendation by the Commission, the period of time appropriate for each of them to carry out the following operations:

(1) The acquisition, in conformity with its laws, of the lands to be transferred to the other and of the rights of way for the new river channels;

(2) The orderly evacuation of the occupants of the lands referred to in paragraph D (1) of this Article.

E. The changes in location of the Rio Grande referred to in paragraphs A, B and C of this Article, shall be executed by the Commission as soon as practical in accordance with the engineering plans recommended by it and approved by the two Governments. The cost of these changes in location shall be equally divided between the two Governments, through an appropriate division of work recommended by the Commission in the same engineering plans.

F. On the date on which the two Governments approve the Commission's Minute confirming the completion of the relocations of the channel of the Rio Grande provided for in paragraphs A, B and C of this Article, the change of location of the international boundary shall be effected in each case and the middle of the new channels of the Rio Grande and of the present channels north of the Horcon Tract and north of Beaver Island shall become the international boundary; and consequently the following territorial adjustments shall take place:

(1) By reason of the rectification referred to in paragraph A of this Article, there shall pass from the north to the south of the Rio Grande within the territory of Mexico, 1606.19 acres (650 hectares) in the Presidio-Ojinaga Tracts.

(2) By reason of the rectification referred to in paragraph B of this Article, there shall pass from the south to the north of the Rio Grande 481.68 acres (194.93 hectares) to form a part of the territory of the United States. This transfer is in recognition of the fact that the Horcon Tract and Beaver Island, located south of the Rio Grande, comprising a total area of 481.68 acres (194.93 hectares) now under the sovereignty of the United States shall pass to and become part of the territory of Mexico.

(3) By reason of the rectification referred to in paragraph C of this Article, there shall pass from the south to the north of the Rio Grande 252 acres (101.98 hectares) to form a part of the territory of the United States. This transfer is in recognition of the fact that, upon the adoption of the new boundary in accordance with Article II of this Treaty, Mexico will receive a greater number and acreage of islands than the United States.

ARTICLE II

In order to resolve uncertainties relating to the sovereignty over islands and to restore to the Rio Grande its character as the international boundary in those locations where this character has been lost between the Gulf of Mexico and its intersection with the land boundary, the Contracting States agree that:

A. Except as provided in Articles I (F), III (B) and III (C) of this Treaty, from the date on which this Treaty enters into force, the international boundary between the United States and Mexico in the limitrophe sections of the Rio Grande and the Colorado River shall run along the middle of the channel occupied by normal flow and, where either of the rivers has two or more channels, along the middle of the channel which in normal flows has the greater or greatest average width over its length, and from that time forward, this international boundary shall determine the sovereignty over the lands on one side or the other of it, regardless of the previous sovereignty over these lands.

B. For the purposes of this Treaty, the Commission shall in each case determine the normal flows, which shall exclude flood flows, and the average widths, referred to in the preceding paragraph of this Article.

C. The Commission, on the basis of the surveys which it shall carry out as soon as practical, shall with appropriate precision delineate the international boundary on maps or aerial photographic mosaics of the Rio Grande and of the Colorado River. In the future, the Commission shall make surveys as frequently as it may consider justifiable, but in any event at intervals not greater than ten years, and shall record the position of the international boundary on appropriate maps. Each of the Governments shall bear half of the costs and other expenses determined by the Commission and approved by the two Governments for the surveys and maps relating to the boundaries.

ARTICLE III

In order to minimize problems brought about by future changes in the limitrophe channels of the Rio Grande and the Colorado River, the Contracting States agree that:

A. When the Rio Grande or the Colorado River moves laterally eroding one of its banks and depositing alluvium on the opposite bank, the international boundary shall continue to follow the middle or the channel occupied by normal flow or, where there are two or more channels, it shall follow the middle of the channel which in normal flow has the greatest average width over its length.

B. (1) When the Rio Grande or the Colorado River, through movements other than those described in paragraph A of this Article, separates from one Contracting State a tract of land, which might be composed of or include islands, of no more than 617.76 acres (250 hectares) and with an established population of no more than 100 inhabitants, the Contracting State from which the tract of land has been separated shall have the right to restore the river to its prior position and shall notify the other Contracting State, through the Commission, at the earliest possible date whether or not it proposes to restore the river to its prior position. Such restoration must be made at its own expense within a period of three years counted from the date on which the Commission acknowledges the separation; however, if such restoration should have been initiated but not completed within the period of three years, the Commission, with approval of both Governments, may extend it for one year. The boundary shall remain in its prior location during the periods herein provided for restoration of the river, notwithstanding the provisions of Article II(A) of this Treaty.

(2) If at the conclusion of the periods herein provided the river has not been restored to its prior position, the international boundary shall be fixed in accordance with the provisions of Article II(A) of this Treaty, and sovereignty over the separated tract of land shall, as of that date, pass to the Contracting State on whose side of the river the separated tract is then located. Should the Contracting State from whose territory the tract was separated notify the other Contracting State of its intention not to restore the river to its prior position, the international boundary shall be fixed in accordance with the provisions of Article II(A) of this Treaty, and sovereignty over the separated tract shall change as of the date on which notification is given through the Commission.

(3) When a tract of land passes from the sovereignty of one Contracting State to the other in accordance with paragraph B(2) of this Article, its area shall be ascertained and recorded by the Commission as a credit in favor of the Contracting State from which it was separated, for later compensation by an equal area in a natural separation of a tract of the other Contracting State which is not restored or in a future rectification recommended by the Commission and approved by the two Governments in the same river. The costs of such rectifications shall be divided equally between the Contracting States and, upon completion, the middle of the new channels shall become the international boundary and the Commission shall cancel the corresponding credit.

C. When the Rio Grande or the Colorado River, by movements other than those provided in paragraph A of this Article, separates, from one Contracting State a tract of land, which might be composed of or include islands, having an area of more than 617.76 acres (250 hectares) or an established population of more than 100 inhabitants, the international boundary shall remain in its prior position and sovereignty over the separated tract of land shall not change, notwithstanding the provisions of Article II(A) of this Treaty. In such cases the Commission shall restore the river to its prior channel as soon as practical, equally dividing the costs between the Contracting States. As an alternative procedure the Commission, with the approval of the two Governments, may rectify the channel of the river in the same section in which the separation occurred, so as to transfer an equal area to the Contracting State from which the tract of land was separated. The costs of these rectifications shall be divided equally between the two Governments and, upon their completion, the middle of the new channels shall be the international boundary, as defined in Article II(A) of this Treaty.

D. The Commissioners shall exchange all information coming to their attention about possible or actual separation of lands as referred to in paragraphs B and C of this Article. The Commission shall promptly make the necessary surveys and investigations in all cases of separation and determine, in accordance with the provisions of paragraphs B and C of this Article, which type of separation has taken place.

E. Pending any changes in sovereignty brought about by the application of paragraphs B or C of this Article, each Contracting State shall extend to the nationals of the other such facilities for transit through its territory as may be necessary to permit the use and enjoyment of separated tracts as before the separation, including such exemption from customs duties and immigration procedures as may be necessary.

F. When in the limitrophe reaches of the Rio Grande and Colorado River, a part of the channel temporarily loses its character as the boundary by reason of the changes contemplated in paragraphs B and C of this Article, the international character of the use and consumption of those waters, in the order established under Article 3 of the Treaty of February 3, 1944 shall not be modified.

ARTICLE IV

In order to reduce to a minimum the shifting of the channels of the Rio Grande and the Colorado River in their limitrophe sections, and the problems that would be caused by the separation of tracts of land, the Contracting States agree that:

A. Each Contracting State, in the limitrophe sections of the Rio Grande and the Colorado River, may protect its bank against erosion and, where either of the rivers has more than one channel, may construct works in the channel or channels that are completely within its territory in order to preserve the character of the limitrophe channel provided, however, that in the judgment of the Commission the works that are to be executed under the paragraph do not adversely affect the other Contracting State through the deflection or obstruction of the normal flow of the river or of its flood flows.

B. (1) Both in the main channel of the river and on adjacent lands to a distance on either side of the international boundary recommended by the Commission and approved by the two Governments, each Contracting State shall prohibit the construction of works in its territory which, in the judgment of the Commission, may cause deflection or obstruction of the normal flow of the river or of its flood flows.

(2) If the Commission should determine that any of the works constructed by one of the two Contracting States in the channel of the river or within its territory causes such adverse effects on the territory of the other Contracting State, the Government of the Contracting State that constructed the works shall remove them or modify them and, by agreement of the Commission, shall repair or compensate for the damages sustained by the other Contracting State.

C. (1) The Commission shall recommend to the two Governments the execution of works it may consider advisable and practical for improvement and stabilization of the channels of the Rio Grande and of the Colorado River in its limitrophe sections, including among others the following measures: clearing, channel excavations, bank protection and rectifications. The Commission shall include in its recommendations an estimate of the costs of construction, operation and maintenance of the works, and a proposal for the division of the work and costs between the Contracting States.

(2) As soon as may be practical, after the two Governments approve the Commission's recommendations, each of the Contracting States shall execute, at its expense, its share of the construction, operation and maintenance referred to in paragraph C(1) of this Article.

ARTICLE V

The Contracting States agree to establish and recognize their maritime boundaries in the Gulf of Mexico and in the Pacific Ocean in accordance with the following provisions:

A. The international maritime boundary in the Gulf of Mexico shall begin at the center of the mouth of the Rio Grande, wherever it may be located; from there it shall run in a straight line to a fixed point, at 25°57'-22.18" North latitude, and 97°8'19.76" West longitude, situated approximately 2,000 feet seaward from the coast; from this fixed point the maritime boundary shall continue seaward in a straight line the delineation of which represents a practical simplification of the line drawn in accordance with the principle of equidistance established in Articles 12 and 24 of the Geneva Convention on the Territorial Sea and the Contiguous Zone. This line shall extend into the Gulf of Mexico to a distance of 12 nautical miles from the baseline used for its delineation. The international maritime boundary in the Gulf of Mexico shall be recognized in accordance with the map entitled International Maritime Boundary in the Gulf of Mexico, which

the Commission shall prepare in conformity with the foregoing description and which, once approved by the Governments, shall be annexed to and form a part of this Treaty.

B. The international maritime boundary in the Pacific Ocean shall begin at the westernmost point of the mainland boundary; from there it shall run seaward on a line the delineation of which represents a practical simplification, through a series of straight lines, of the line drawn in accordance with the principle of equidistance established in Articles 12 and 24 of the Geneva Convention on the Territorial Sea and the Contiguous Zone. This line shall extend seaward to a distance of 12 nautical miles from the baselines used for its delineation along the coast of the mainland and the islands of the Contracting States. The international maritime boundary in the Pacific Ocean shall be recognized in accordance with the map entitled International Maritime Boundary in the Pacific Ocean, which the Commission shall prepare in conformity with the foregoing description and which, once approved by the Governments, shall be annexed to and form a part of this Treaty.

C. These maritime boundaries, as they are shown in maps of the Commission entitled International Maritime Boundary in the Gulf of Mexico and International Maritime Boundary in the Pacific Ocean, shall be recognized as of the date on which this Treaty enters into force. They shall permanently represent the maritime boundaries between the two Contracting States; on the south side of these boundaries the United States shall not, and on the north side of them Mexico shall not, for any purpose claim or exercise sovereignty, sovereign rights or jurisdiction over the waters, air space, or seabed and subsoil. Once recognized, these new boundaries shall supersede the provisional maritime boundaries referred to in the Commission's Minute No. 229.

D. The establishment of these new maritime boundaries shall not affect or prejudice in any manner the positions of either of the Contracting States with respect to the extent of internal waters, of the territorial sea, or of sovereign rights or jurisdiction for any other purpose.

E. The Commission shall recommend the means of physically marking the maritime boundaries and of the division of work for construction and maintenance of the markers. When such recommendations have been approved by the two Governments the Commission shall construct and maintain the markers, the cost of which shall be equally divided between the Contracting States.

ARTICLE VI

A. The lands and improvements which, upon relocation of the international boundary under the provisions of Articles I, III and IV of this Treaty, are transferred from one Contracting State to the other, shall pass to the respective Contracting State in the absolute ownership, free of any private titles or encumbrances of any kind; compensation to the owners of the lands to be transferred shall be the responsibility of the delivering Contracting State. No payments shall be made between the two Governments for value of the lands and improvements transferred from one Contracting State to the other as a result of the change of location of the international boundary.

B. The relocation of the international boundary and the transfer of portions of territory or any other provision of this Treaty shall not affect in any way:

(1) The legal status with respect to citizenship laws, of those persons who are present or former residents of the portions of territory transferred;

(2) The jurisdiction over legal proceedings, of either a civil or criminal character, which are pending on the date on which the relocation is effected or which were decided prior to that date;

(3) The jurisdiction over acts or omissions occurring within or with respect to the said portions of territory prior to their transfer;

(4) The law or laws applicable to the acts or omissions referred to in paragraph B (3) of this Article.

C. (1) All materials, implements, equipment and repair parts intended for the construction, operation and maintenance of the works required to carry out the provisions of this Treaty shall be exempt from taxes relating to imports and exports. For this purpose, each Section of the Commission shall furnish verification certificates covering all materials, implements, equipment and repair parts intended for such works.

(2) The personnel employed either directly or indirectly on the construction, operation or maintenance of the works required to carry the provisions of this Treaty shall be permitted to pass freely from one country to the other for the purpose of going to and from the place or location of the works, without any immigration restrictions, passports, or labor requirements. For this purpose, each Section of the Commission shall furnish adequate means of identification to the personnel employed by it on the aforesaid works.

ARTICLE VII

The boundary on international bridges which cross the Rio Grande or the Colorado River shall be shown by an appropriate monument exactly over the international boundary determined by this Treaty at the time of demarcation. When in the judgment of the Commission the variations of the international boundary should warrant that the monument on any bridge should be relocated, it shall so recommend to the two Governments and with their approval may proceed to the reinstallation. This monument shall denote the boundary for all the purposes of such bridge. Any rights other than those relating to the bridge itself shall be determined in case later changes occur, in accordance with the provisions of this Treaty.

ARTICLE VIII

The following agreements shall be terminated as of the entry into force of this Treaty, without prejudice to any right, title or interest which has accrued thereunder except as otherwise provided in this Treaty with respect to such right, title or interest:

A. the Convention Touching the International Boundary line, signed on November 12, 1884;

B. the Convention for the Elimination of Bancos in the Rio Grande, signed on March 20, 1905; and

C. to the extent that they are inconsistent with this Treaty:

(1) Article V of the Treaty of Guadalupe Hidalgo, signed on February 2, 1848;

(2) Article I of the Gadsden (Mesilla) Treaty, signed on December 30, 1853;

(3) Article IV of the Convention establishing the International Boundary Commission, signed March 1, 1889; and

(4) Article VI of the Convention on Rectification of the Rio Grande, signed February 1, 1933; and

D. any other agreement, or any part thereof, between the United States of America and the United Mexican States which is inconsistent with this Treaty, to the extent of that inconsistency.

ARTICLE IX

The present Treaty shall be ratified in accordance with the constitutional processes of each Contracting State and the instruments of ratification shall be exchanged in Washington, D.C. as soon as possible. It shall enter into force on the date of the exchange of ratifications.

Done at the City of Mexico, the twenty-third day of November, nineteen seventy, in the English and Spanish languages, each text being equally authentic.

For the United States of America:
ROBERT H. MCBRIDE.

For the United Mexican States:
ANTONIO CARRILLO FLORES.

Mr. MANSFIELD. Relative to the Treaty with Mexico, I ask unanimous consent that various excerpts from the report (No. 92–11) be printed in the RECORD at this point.

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

TREATY WITH MEXICO RESOLVING BOUNDARY DIFFERENCES

BACKGROUND

For over a century the erratic rivers—the Rio Grande and the Colorado—forming parts of the United States–Mexico boundary have caused administrative uncertainties regarding the exact location of that boundary. Consequently, disputes have arisen with respect to national sovereignty over those islands and tracts of land which have shifted from one side of the river to the other. Since 1884, the two Governments have unsuccessfully attempted, through a series of treaties, to resolve these differences and to establish a procedure for determining sovereignty.

During the past several years, the Governments of the United States and Mexico, through the International Boundary and Water Commission seated at El Paso, Texas, and Ciudad Juarez, Chihuahua, have studied and discussed these boundary difficulties in search of a solution. On the basis of those discussions, the U.S. Secretary of State and the Mexican Secretary for Foreign Relations reached an accord on the basic principles for a comprehensive treaty. These principles were approved by President Nixon and President Diaz Ordaz in Puerto Vallarta, Mexico, on August 20, 1970, and a treaty incorporating them was signed in Mexico City on November 23, 1970. This treaty was submitted to the Senate on April 21, 1971.

PROVISIONS OF TREATY

The final version of this treaty consists of a short preamble and nine articles. A summary of its major provisions is set forth below.

Articles I and II settle three specific boundary problems.

First, the long-standing dispute over the land known as the Presidio-Ojinaga Tracts (Texas-Chihuahua) is resolved by assigning 1606.19 acres to Mexico and 555.81 acres to the United States.

Second, the Horcon and Beaver Island Tracts in the lower Rio Grande Valley will pass to Mexico and the Mexican Government will cede, as compensation to the U.S., an equal amount of nearby acreage (481.68 acres).

Third, the boundary is re-established in the middle of the river. Where there is more than one channel the boundary will run in the center of the wider or widest channel regardless of its depth. Under this arrangement, Mexico will receive a greater number and acreage of islands than the United States. In order to offset this loss, the Mexican Government has agreed to cede 252 acres of land in the Presidio Valley to the U.S.

After the treaty comes into force and enabling legislation has been enacted, the International Boundary and Water Commission will then proceed to relocate the Rio Grande with the two Governments sharing the costs equally. Thereafter, all lands belonging to Mexico will be south of its channel, and all lands belonging to the U.S. will be north of its channel.

The Commission is also required to prepare, as soon as practical, maps showing the exact location of the international boundary. These maps will be revised in the future at intervals not greater than 10 years.

Article III provides a procedure for the handling of land transfers when a river shifts or adopts a new channel. In the case of a small tract of land or island no larger than 617.76 acres nor having a population of more than 100, the Government of the country from which the tract is separated must re-

store the river to its prior location within three years (with a possible one year extension) or the boundary will be altered. In the case of larger tracts, where restoration is likely to be in the interest of both Governments, the Commission will restore the acreage to the country from which it was cut, either where the cut was made or at a more advantageous place in the same section of the river, with the two Governments sharing the cost equally.

If a Government chooses not to restore a small tract, that country will receive a credit for the lost territory. This credit will be cancelled either when the river naturally cuts land of equal acreage to its side of the river or in a future project to straighten or rectify the same river. Therefore, neither country will permanently lose territory through sudden shifts in a river.

Article IV authorizes the Commission to undertake projects to preserve the boundary channels. It prohibits the construction of works which will deflect or obstruct the flow of a river to the disadvantage of the other country. Each Government will be obliged to remove or modify works that do cause damage and to repair or compensate for any damage actually caused by such works.

Article V establishes permanent maritime boundaries in the Gulf of Mexico and the Pacific Ocean which will be drawn to a distance of 12 miles from the coasts, based on the principle of equidistance contained in articles 12 and 24 of the Geneva Convention on the Territorial Sea and the Contiguous Zone. A short, inshore segment of the boundary on the Gulf side will continue to move with the mouth of the river, swinging from a fixed point 2,000 feet off the present mouth to the middle of the river, wherever it may be at any time.

Article VI obliges the Governments to transfer, free of any private titles or encumbrances, those lands and improvements that pass from one Government to the other under this treaty. When lands are ultimately transferred to the other country, private citizens will be compensated by their own Government which will, over a period of time, recoup much of this cost from the sale of lands similarly transferred to it from the other country.

The Commission will also be authorized to move material, equipment, personnel, etc., from one country to the other without customs, immigration, and labor restrictions.

Article VII authorized the movement of boundary markers on bridges in order to conform to a river's movement under the bridge.

Article VIII terminates the boundary conventions of 1884 and 1905 and all provisions in other treaties which are inconsistent with this treaty.

Article IX provides that this treaty will enter into force when ratifications are exchanged in Washington.

COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the Treaty With Mexico Resolving Boundary Differences on the morning of November 19, 1971, at which time the following witnesses testified: Mr. Robert Hurwitch, Deputy Assistant Secretary of State for Inter-American Affairs; and Mr. Joseph F. Friedkin, U.S. Commissioner, International Boundary and Water Commission, U.S. and Mexico.

In the afternoon of November 19, 1971, the Committee met in executive session and ordered the Treaty With Mexico Resolving Boundary Differences reported favorably to the Senate for advice and consent to ratification.

The statements of Mr. Hurwitch and Mr. Friedkin are appended to this report.

Mr. MANSFIELD. Mr. President, I make the same request with respect to the report (No. 92–12) on Executive E, 92d Congress, first session, the tax convention with Japan, and Executive O, 91st Congress, second session, the protocol signed at Washington on October 12, 1970, to the convention between the United States of America and the French Republic with respect to taxes on income and property.

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

TAX CONVENTION WITH JAPAN AND TAX PROTOCOL WITH FRANCE

I. TAX CONVENTION WITH JAPAN

A. PURPOSE

The purpose of this convention, which was signed on March 8, 1971, is to replace the existing income tax convention with Japan dated April 16, 1954, as modified and supplemented by protocols of May 7, 1960, and August 14, 1962. According to the Administration, it follows in general the pattern of income tax conventions now in force between the United States and a number of other countries and reflects changes in American and Japanese tax laws and recent developments in treaty policy of both countries. To the extent that policy and technical considerations permit, the convention follows the model draft convention published in 1963 by the Organization for Economic Cooperation and Development which the United States and Japan joined in 1961 and 1964, respectively. In addition, it is similar to income tax convention recently concluded by the United States with France, Finland and Belgium.

B. PROVISIONS OF CONVENTION

The Tax Convention with Japan contains a preamble and 29 articles. These are summarized in the Under Secretary of State's letter of submittal which is incorporated in the President's message transmitting the convention to the Senate. According to the Department of State, the following changes from the existing convention represent substantive improvements:

1. The force of attraction rule would be eliminated. Under the new convention the reductions in the rate of withholding tax on investment income would be applicable as long as the investment income is not effectively connected with a permanent establishment which the taxpayer has in the taxing country. Under the existing convention the mere existence of a permanent establishment makes the reductions inapplicable.

2. Interest income can be taxed at 10 per cent under both the existing and new conventions, and both conventions provide an exemption for interest received by the Bank of Japan and the Export-Import Bank of Japan and the Federal Reserve Banks of the United States and the Export-Import Bank of the United States. The new convention extends the exemption from Japanese tax to interest received by residents of the United States on debt obligations guaranteed or insured or indirectly financed by those United States banks and reciprocally extends the exemption from United States tax to interest received by residents of Japan on debt obligations guaranteed or insured or indirectly financed by those Japanese banks or insured by the Government of Japan.

3. The definition of direct investments for purposes of the 10 per cent withholding rate on dividends would be changed to reduce the stock ownership requirement from more than 50 per cent of the stock to at least 10 per cent of the voting stock.

4. Rental income from tangible personal property not connected with a permanent establishment of the recipient would be exempt under the new convention, whereas the existing convention applies the 10 per cent royalty rate to rental income. The exemption would not, however, apply to rent from leases of ships or aircraft by a person not engaged in the operation of ships or aircraft in international traffic.

In addition, at the time the convention was signed, there were two exchanges of notes relating to understandings with regard to certain provisions of the agreement. The Department of State's explanation of these two exchanges (reprinted on pp. 25–28 of the President's message) is set forth below:

"One of the related exchanges of notes deals with exemptions of United States residents deriving international shipping or aircraft income from Japanese enterprise tax (or tax substantially similar to the enterprise tax) if state, county, or local governments in the United States do not impose an income tax (or a tax substantially similar to the Japanese enterprise tax) on the operation by a Japanese resident of ships or aircraft in international traffic."

"The other exchange of notes relates to the application of the exemption for international shipping and aircraft income to income from containers used in international shipping and to income from a lease of a ship or aircraft by a person engaged in international traffic to another person engaged in international traffic. This exchange also recognizes that interest income is derived from a debt obligation indirectly financed by the Export-Import Bank of Japan where that bank provides funds in the form of export, import, or investment credit to a resident of Japan for the purpose of making a loan to a U.S. resident."

C. DATE OF ENTRY INTO FORCE

Pursuant to the provisions of Article 28, the convention will enter into force 30 days after the date on which instruments of ratification are exchanged and its provisions will have effect for taxable years on or after January 1 of the year following which the treaty comes into force. The convention may be terminated by either party five years after it enters into force by giving notice of termination at least six months before the end of any calendar year.

II. PROTOCOL TO FRENCH TAX CONVENTION

A. PURPOSE AND BACKGROUND

The purpose of this protocol, which was signed on October 12, 1970, is to extend to certain United States residents the benefits of a tax credit available under French law to residents of France who receive a dividend from a French corporation. In effect, this would require France to give American portfolio investors in French corporations a credit equal to one-half of the French corporate income tax paid with respect to profits out of which dividends are distributed.

According to the Administration, under French law, when a shareholder residing in France receives a dividend from a French corporation, he is considered to have paid half the profits tax charged to the corporation. The French corporate tax is nominally 50 per cent, but it is viewed as though the corporation paid a tax of 25 per cent and withheld the other 25 per cent on behalf of the government from the dividends distributed to the shareholder. The shareholder includes the latter portion in his income and then claims it as a credit against his personal tax liability, receiving a refund in appropriate cases.

As explained in the State Department's letter of submittal, this type of credit was introduced for residents of France in 1965. During the negotiation of the 1967 treaty with France, the United States proposed the inclusion in the agreement of a similar credit for American investors, largely on the ground that the French tax on U.S. shareholders should not be greater than on French shareholders. The French would not accept the proposal at that time but agreed to reopen discussions on the subject in the future if the credit were to be granted to nonresidents of any other country. France has since undertaken negotiations on this matter with certain other countries and for this reason agreed to the pending protocol.

B. PROVISIONS

The protocol contains one substantive provision which adds a new paragraph (6) to Article 9 (relating to the taxation of dividends) of the existing 1967 tax convention with France. Pursuant to the terms of the protocol, the investors who would be entitled to the French tax credit or (*a*) United States resident individuals; (*b*) United States corporations owning less than 10 percent of the shares of the paying French corporation; and (*c*) United States regulated investment companies of which 80 per cent or more of the shares are owned by United States residents and citizens.

It should be noted that related corporations (where the recipient owns 10 per cent or more of the shares of the paying corporation) will not be entitled to the credit with respect to dividends between them. This is confirmed in an exchange of diplomatic notes which took place at the time the protocol was signed. The notes are included in the President's message transmitting the protocol to the Senate.

C. DATE OF ENTRY INTO FORCE

Under the terms of Article 2, the protocol will enter into force one month after the instruments of ratification are exchanged and its provisions will have effect for dividends declared on or after January 1, 1970. The protocol will remain in force as long as the 1967 convention continues in force.

COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the Tax Protocol with France and the Tax Convention with Japan on November 19, 1971. At that time, Mr. Edwin Cohen, Assistant Secretary of the Treasury in charge of tax policy, testified in support of the Protocol and Convention. His prepared statement is reprinted in the Appendix to this report. Also included in the Appendix is a copy of the letter from Mr. Laurence M. Woodworth, Chief of Staff of the Joint Committee on Internal Revenue Taxation, together with memoranda on the Protccol and the Convention. Mr. Woodworth's letter states that the staff of the Joint Committee is not aware of any objection to the proposed Convention or Protocol.

Following the hearing on November 19, the Committee met in executive session and ordered the Protocol and Convention reported favorably to the Senate with the recommendation that the Senate give its advice and consent to ratification of the agreements.

The PRESIDING OFFICER. Without objection, the convention, the protocol, and the treaty will be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification, which will be read for the information of the Senate.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present and concurring therein), That the Senate advise and consent to the protocol, signed at Washington on October 12, 1970, to the Convention between the United States of America and the French Republic with Respect to Taxes on Income and Property of July 28, 1967 (Ex. O, 91–2).

Resolved (two-thirds of the Senators present and concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Tokyo on March 8, 1971 (Ex. E, 92–1).

Resolved (two-thirds of the Senators present and concurring therein), That the Senate advise and consent to the ratification of the Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary Between the United States of America and the United Mexican States, signed at Mexico City on November 23, 1970 (Ex. B, 92–1).

Mr. MANSFIELD. Mr. President, just to emphasize what has already been said, the vote on the first treaty will occur at 10 o'clock on Monday next. The vote on the second comes at 11 o'clock that day. Then the vote on the other treaty and the other protocol, rollcall votes, will follow.

So the Senate can anticipate three rollcall votes on the first day of the renewal of the session after the Thanksgiving Day recess, which I must emphasize for the benefit of the press amounts to only 2 days.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

TRIBUTES TO THE LATE SENATOR HOLLAND AND THE LATE SENATOR ROBERTSON

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there be an extension of 10 days for tributes to our late departed colleague, Senator Holland.

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

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

Mr. BYRD of West Virginia. I yield.

Mr. MANSFIELD. May I say that at an appropriate time, the joint leadership will request the distinguished present Presiding Officer of the Senate, the Senator from Florida (Mr. CHILES) and his associate, the distinguished Senator from Florida (Mr. GURNEY) to initiate some time during which the Senate can express its feelings toward our late departed colleague, and the same situation will develop in relation to the two distinguished Senators from Virginia (Mr. SPONG and Mr. BYRD) relative to the passing of our late beloved colleague, Senator Robertson.

UNANIMOUS-CONSENT AGREEMENT WITH RESPECT TO S. 2824

Mr. BYRD of West Virginia. Mr. President, at the direction of the distinguished majority leader, having cleared the matter with the distinguished Senator from New Hampshire (Mr. COTTON), the distinguished Senator from Washington (Mr. MAGNUSON), and the distinguished assistant Republican leader, I ask unanimous consent that at such time as S. 2824, the so-called Fish Inspection Bill, is brought up for consideration, there be a time limitation on the bill of 3 hours, to be equally divided between the distinguished Senator from New Hampshire (Mr. COTTON) and the distinguished Senator from Washington (Mr. MAGNUSON), and that time on any amendments in the second degree, motions, and appeals, with the exception of non-debatable motions, be limited to one-half hour, to be equally divided by the mover and the manager of the bill;

Provided further, that Senators in control of time on the bill may yield therefrom to any Senator on any amendment, motion, or appeal, with the exception of non-debatable motions.

The PRESIDING OFFICER. The Senator did not specify the time on amendments.

Mr. BYRD of West Virginia. One-half hour on amendments in the first degree and the second degree.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR TRANSACTION OF MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, is there an order for morning business tomorrow?

The PRESIDING OFFICER. There is not.

Mr. BYRD of West Virginia. I ask unanimous consent that immediately following the recognition of the two leaders tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

Mr. BYRD of West Virginia. I ask unanimous consent that at the conclusion of morning business tomorrow, the Chair lay before the Senate the unfinished business.

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow has already been stated by the distinguished majority leader.

ADJOURNMENT UNTIL 9 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 9 o'clock and 45 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, November 24, 1971, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate, November 23, 1971:

DIPLOMATIC AND FOREIGN SERVICE

Robert Foster Corrigan, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

William A. Stoltzfus, Jr., of New Jersey, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Kuwait, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain and to the State of Qatar.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 23, 1971:

U.S. COAST GUARD

The nominations beginning Richard E. Sardeson, to be commander, and ending David L. Nelson, to be lieutenant commander, which nominations were received by the Senate and appears in the CONGRESSIONAL RECORD on November 18, 1971.

U.S. CIRCUIT COURTS

Alfred T. Goodwin, of Oregon, to be a U.S. circuit judge for the ninth circuit.

U.S. DISTRICT COURTS

Charles M. Allen, of Kentucky, to be a U.S. district judge for the western district of Kentucky.

Levin H. Campbell, of Massachusetts, to be a U.S. district judge for the district of Massachusetts.

Clarence C. Newcomer, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania.

Ralph F. Scalera, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania.

James S. Holden, of Vermont, to be U.S. district judge for the district of Vermont.

EXTENSIONS OF REMARKS

THE PUBLIC STATEMENTS OF WILLIAM H. REHNQUIST—PART II

HON. BIRCH BAYH

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Monday, November 22, 1971

Mr. BAYH. Mr. President, last week I placed in the RECORD excerpts from the speeches, writings, and testimony of William H. Rehnquist, President Nixon's nominee to replace John Marshall Harlan as an Associate Justice of the Supreme Court. Today, I ask unanimous consent to provide further excerpts from Mr. Rehnquist's public statements. These excerpts are from Mr. Rehnquist's testimony before several congressional committees, and an article he wrote for the Harvard Law Record in 1959 concerning the role of the Senate in the confirmation process. I bring these additional statements by Mr. Rehnquist to the attention of the Senate so that the full RECORD will be available when the nomination comes to be considered by the Senate as a whole.

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

FURTHER EXCERPTS FROM THE WRITINGS AND TESTIMONY OF WILLIAM H. REHNQUIST

K. Excerpts from testimony at hearings on Executive Order No. 11065 (SACB) before the Senate Subcommittee on Separation of Powers (October 5, 1971) (unprinted):

* * * * *

Senator ERVIN. What organizations' activities is the Attorney General empowered, or alleged to be empowered, to scrutinize?

Mr. REHNQUIST. Well, under the provisions of 11605, which is President Nixon's Executive Order, it would be organizations which are totalitarian, fascist, communist, subversive, as more fully defined in a later section of the order, plus organizations which have adopted a policy of unlawfully advocating the commission of acts, of force or violence, to deny others their rights under the Constitution or laws of the United States, or which seek to overthrow the Government of the United States or state or subdivision thereof by any unlawful means.

Senator ERVIN. Is not President Nixon's Order far broader than President Eisenhower's?

Mr. REHNQUIST. I think not, Mr. Chairman. I am inclined to agree with Senator Gurney that it is actually narrower. It expands one category, in that it specifically mentions the commission of acts of force or violence to deny others their rights under the constitution or laws of the United States or any state, and I do not believe that that was contained in President Eisenhower's Executive Order. But the definitional sections found on pages 3, 4 and 5 of the Order tend to be tighter than those found in President Eisenhower's Order.

Senator ERVIN. Do you not agree that President Eisenhower's Order was specifically directed toward persons already enjoying or actually seeking federal employment?

Mr. REHNQUIST. Well, I think you have to take the situation as it existed at that time. 10450 did not exist by itself. It existed along with the provision for the Attorney General to compile a list of organizations—and I cannot accurately paraphrase the language in one sentence, but who advocated the overthrow of the Government by force or violence.

Senator ERVIN. Where does the Attorney General get that authority?

Mr. REHNQUIST. He originally got it—Or the origin was an order by President Roosevelt which was not really as refined as the later order issued by President Truman. But I think the customary way of discussing it is to say that it originally came from the Order issued by President Truman.

Senator ERVIN. My point is: What statute empowers the Attorney General to petition the Subversive Activities Control Board to designate an organization, for example, as totalitarian as set out in President Nixon's Order?

Mr. REHNQUIST. Well, I would say the statute that confers upon the President the right to determine suitability and qualifications for federal employment.

Senator ERVIN. Does that statute give the President the power to have the Subversive Activities Control Board, upon petition of the Attorney General, place the organizational membership of all Americans, all Americans, under the scrutiny of the Subversive Activities Control Board?

Mr. REHNQUIST. The statute certainly does not, but much the same objection was raised in these two cases I refer to in my testimony, that it was an improper delegation by the President and it lacked statutory authority, and the Court of Appeals for this Circuit said otherwise.

Senator ERVIN. Well, what statute gives the President authority to confer upon the Subversive Activities Control Board, by an executive order, the power to scrutinize the activities and the acts of every group in America who commits acts of force or violence, or unlawfully damages or destroys property or injures persons, or violates laws pertaining to treason, rebellion or insurrection, riots or civil disorders, seditious conspiracy, sabotage, trading with the enemy, obstruction of the recruiting and enlistment service of the United States, impeding officers of the United States or related crimes or offenses?

That is what this is all about, is it not? It undertakes to give this power.

Mr. REHNQUIST. The Order certainly does undertake to empower the Board to do that, and the general notion that the President could confer this type of power on the Attorney General under the statutory authority vested in him by Congress to review the qualifications of federal employees was upheld by the Court of Appeals for this Circuit.

Now, the added question remains: Can he transfer that power from the Attorney General to the Subversive Activities Control Board?

Senator ERVIN. I believe there is a question prior to that. What statute gives the Subversive Activities Control Board the power to investigate violations of criminal statutes which are punishable as crimes after trial in the courts of this country. And what statute gives the President the power to confer jurisdiction in respect to criminal acts upon the Subversive Activities Control Board?

Mr. REHNQUIST. Well, he was previously upheld in his conferring jurisdiction of much the same type on the Attorney General, under the delegation statute. In my opinion, he can confer that authority on the Attorney General, he can likewise confer it on the Subversive Activities Control Board. Clearly, he can make these findings himself.

Senator ERVIN. The difference is fundamentally that the Attorney General is an executive officer. He is the head of the Department recognized by the Constitution. The Subversive Activities Control Board is an agency created by the Congress, not by the Constitution, and its powers are defined by the Congress.

Mr. REHNQUIST. Mr. Chairman, the Attorney General is a creation of the Congress.

Senator ERVIN. Yes, but he is also a head of the Department, and the head of a department is an officer recognized by the Constitution.

Mr. REHNQUIST. Well, but I really do not think that is significant in this respect. The Constitution says the President may call upon the heads of various departments for their opinion, but certainly that does not pretend to circumscribe what the President may confer in the way of authority upon the heads of departments, nor does it——

Senator ERVIN. You consider that the President would have authority to let the Subversive Activities Control Board try criminal cases?

Mr. REHNQUIST. No, sir, certainly not.

Senator ERVIN. But you do contend that he has the power from some undesignated source to let them investigate things, or acts, which are crimes under state law, and things which are crimes under Federal law, do you not? Is that not your position?

Mr. REHNQUIST. Yes. I do not think it is from some undisclosed source. I think it is from a rather specific congressional statute, his power to define and pass upon the qualifications for federal employment, and the Subversive Activities Control Board, in discharging this function, is not purporting to assess criminal liability. It is purporting to make findings as to the activities of particular organizations for the benefit of potential federal employers who are entitled to take this into consideration, knowing their sympathetic membership in this type of organization.

Senator ERVIN. I have inserted in the record the statutory provisions cited by the President in Executive Order 11605 to sustain issuance of this Order, and I am unable to find a single syllable in any one of them that empowers him to make this vast extension of powers to hte Subversive Activities Control Board.

Mr. REHNQUIST. Well, I understand your position, Mr. Chairman. I simply find myself in respectful disagreement with it.

Senator ERVIN. Well, of course, as a Chief Justice once said, we probably read the same books and found different conclusions, but I would be awfully glad if you would point out some specific provisions in these statutes cited by the President to justify this exercise of power, denied by an Act of Congress, to give the Subversive Activities Control Board that power.

Mr. REHNQUIST. Well, when you say "denied by an Act of Congress," Mr. Chairman, I take it you do not mean affirmatively denied but simply not affirmatively conferred upon it?

Senator ERVIN. Affirmatively implied.

Mr. REHNQUIST. Well, I think that the prior delegation of President, the two I have mentioned in my prepared statement, to, you know, the seven independent agencies which have a good deal more claim to be outside of the Executive Branch than the Subversive Activities Control Board, more than supports this.

* * * * *

Senator ERVIN. I just want to say that as far as I am concerned, I do not think any prior Executive Orders should be cited to justify the assertion of further authority by a President, because, that way, Presidents could lift themselves far up above the Constitution by their own bootstraps, and, as for statutory authority, I do not think the President has the right to issue an Executive Order which has the effect of legislation.

* * * * *

Senator ERVIN. Does not the Executive Order of President Nixon undertake to empower the Subversive Activities Control Board, upon petition of the Attorney General, to investigate any organizations which the Attorney General alleges fit the qualifications prescribed in the Executive Order regardless of whether any of the members of those organizations are employed by the Federal Government or seeking employment by the Federal Government?

Mr. REHNQUIST. I agree with the thrust of your question, except for the use of the word "investigate," Mr. Chairman. On page 22, as I read it, the section (c) says:

"The Subversive Activities Control Board shall, upon petition of the Attorney General, conduct appropriate hearings to determine whether any organization is" such and such.

But certainly there is no triggering mechanism that a member of an organization must first have applied for federal employment before that goes.

Senator ERVIN. Yes. So, it gives him the power to investigate all organizations; that is, to conduct hearings to determine whether organizations fit into any of these categories when the Attorney General files a petition to that effect, regardless of whether those organizations have among their members any federal employees or any persons who have any intention ever of seeking employment with the Federal Government?

Mr. REHNQUIST. There is certainly no nexus between a member seeking employment and the right of the Board to conduct the hearing.

Senator ERVIN. Now, also, it gives the Subversive Activities Control Board, on petition of the Attorney General, the power to conduct hearings in respect to crime, the crimes enumerated in the Executive Order, regardless of whether those crimes are committed by any federal employee or any person who ever contemplates seeking employment with the Federal Government, does it not?

Mr. REHNQUIST. It does, Mr. Chairman. I think that that is the only way it can be done in a situation like this. If the President considers that membership in an organization of this type ought to be a factor to be taken into consideration, the various means for applying for federal employment and the tremendous decentralized nature of the program prevent that from being centralized, and so the only practicable way to handle it is to put it in the hands of those administering the Federal Government employment program, such findings as the Board may make.

Senator ERVIN. Would not the practicable thing be to establish a mechanism for determining the organizational membership of persons who are actually employed by the Federal Government or persons seeking employment by the Federal Government, instead of putting all Americans under the scrutiny of the Subversive Activities Control Board?

Mr. REHNQUIST. I think, in this way, Mr. Chairman, that that would be an extraordinary unworkable way, because the first person, say, who is a member of the Weathermen, that applies for a position in the Federal Government, at that point, under your theory, the SACB would be authorized to investigate or to hold hearings with respect to the Weatherman. Now, then, you have the long process of the Justice Department investigation, hearings, findings of fact by the Board, all of this while the particular individual is presumably having the decision on his employment held up.

Senator ERVIN. Do you think that the American people are so lacking in intelligence that they need the Subversive Activities Control Board to tell them that the Weatherman faction of the Student's for Democratic Society are an undesirable organization?

Mr. REHNQUIST. I think it is desirable, Mr. Chairman, to have some sort of a formal fact-finding process. Perhaps, the Weatherman is an obvious case. But I think it is quite conceivable that having a membership in an organization by a federal employee without the benefit of the fact-finding process might conclude they were somewhat suspect. If the fact-finding process concludes that they do not meet the test of the Order, that, in effect, would permit people to be employed, and it would not be resolved just on the basis of suspicion or on the basis of a particular hunch that the employing officer may have but rather on the basis of a hearing on the record with evidence presented.

Senator ERVIN. Well, it would seem to me the intelligent way to go about this, if the purpose is to ensure loyalty in the federal establishment, would be to investigate the membership of people who are employed, who seek federal employment or who enjoy federal employment, rather than investigating organizational membership of all of the Americans, all of the American people, regardless of whether they are employed by the Federal Government or ever seek employment with the Federal Government.

Mr. REHNQUIST. I think, initially, Mr. Chairman, that would provide a different approach than this. I think that within a matter of a couple of years it would rapidly become exactly the same thing, because you have enough applicants for federal employment and enough belonging to a number of different organizations so that the triggering mechanism would have been put into effect, and the Board would be investigating exactly what it would be investigating now.

In addition, under your system, you would have a system of investigation of organizations with respect to which there is no reason to believe at all that they meet the requirements of the Order, whereas, the way the Order is drawn, the Justice Department must first make some sort of a finding of probable cause before the petition.

Senator ERVIN. Yes, but you cannot tell whether they meet this criteria unless you investigate it. In other words, it seems to me that this is like sailing clear across the Atlantic Ocean when your objective is to get across the creek.

L. Excerpts from testimony at hearings on equal rights for men and women, 1971, before a subcommittee of the House Judiciary Committee (1971).

Mr. REHNQUIST.

* * * * *

While the Department supports the enactment of House Joint Resolution 208, the equal rights amendment, there is no denying that opponents of that amendment have raised significant quesitons which deserve the serious consideration of the committee. The placing in the Constitution of such broad general language as is to be found in House Joint Resolution 208 would, by reason of doubt as to the scope of its language, add substantial uncertainties in this area of constitutional law which would probably require extensive and protracted litigation to dispel. Those who have testified in favor of the amendment in the past do not themselves appear to be in agreement as to the sweep of its language. Yet it is conceded that however broad its sweep, it would not reach many practices of private individuals which unjustifiably differentiate between men and women. The Department of Justice feels that the amendment, no matter how construed, would not be a substitute for legislation, such as H.R. 916.

Some proponents of the amendment have stated that ambiguities in its language cannot be taken care of by legislative history. This rather short answer, however, is not entirely satisfactory.

* * * * *

Hearings before the Senate Judiciary Committee last year have highlighted the extraordinary breadth of construction urged by some of the amendment's supporters. While the President, the administration, and undoubtedly most of the Nation are united in their desire to achieve equality for women, as that term has been commonly understood, there is some question as to whether the broadest possible construction of the amendment may not go substantially beyond that common understanding. We would have some doubts as to whether there is a national consensus for compelling all levels of government to treat men and women across the board as if they were identical human beings. Certainly many people feel that publicly maintained restrooms should continue to be separate, that differing ages of consent and majority are, under some circumstances, justifiable, and that laws which are adopted with the genuine purpose of protecting women, rather than as a disguise for discriminating against them, are likewise permissible. Even if one were to determine for himself that all of these differences in treatment ought to be abandoned, under a Federal system such as ours, the question would remain as to whether a unitary rule should be promulgated by constitutional amendment which would deny to each State the right to choose for itself among rational alternative policies.

* * * * *

In spite of the reservations of the Department of Justice and of these developments which have intervened between the time that the President spoke in 1968 and the present time, the administration is committed to the support of House Joint Resolution 208. The desirability of obtaining some such declaration of policy in the Constitution outweighs the disadvantages of this particular proposal.

Whatever may be the resolution of the committee with respect to House Joint Resolution 208, there is no question but what many of the serious inequalities of treatment suffered by women occur in the area of private conduct, rather than public conduct, and can therefore be reached only by legislation such as H.R. 916.

* * * * *

We are agreed that the EEOC needs additional enforcement machinery to function

effectively. However, we favor legislation providing for direct actions in the district courts by the Commission, rather than legislation like H.R. 916 providing for administrative cease and desist orders, as a means of strengthening the EEOC's enforcement powers.

* * * * *

I have taken, from your statement, that you prefer the legislative approach, and I would like to ask you directly—if you had the choice, would you take the legislative approach or the constitutional approach?

Mr. REHNQUIST. You mean if one could have only one of the two?

Mr. KEATING. All right, let's start out with that one.

Mr. REHNQUIST. Yes. If one could have only one of the two, I think I would prefer the legislative approach. I think it reaches more evils that are of general concern to women than the constitutional amendment would.

M. Excerpts from testimony at hearings on U.S. Government information policies and practices—The Pentagon Papers, before the House Subcommittee on Foreign Operations and Government Information (1971).

Mr. HORTON. Would you like to amplify on the position of the Justice Department?

Mr. REHNQUIST. I will be happy to. I suspect after you hear me amplify, you might rather see it in writing, and I will be glad to.

Section 2954 of title 5, United States Code, which is the statute in question, is derived from section 2 of the act of May 29, 1928. Section 1 of that act provided for the repeal of 128 statutes requiring the submission of reports to Congress, which either had become obsolete or which served no useful purpose.

Section 2 of the 1928 act, which has now become section 2954 of title 5, United States Code, was designed to enable Congress to obtain, if needed, the information theretofore contained in the discontinued report. And we think that is indicated in the Senate report made to the Congress in the enactment of the 1928 statute, and I will quote from that:

"To save any question of the House of Representatives to have furnished to it any of the information contined in the reports proposed to be abolished, a provision has been added to the bill requiring such information to be furnished to the Committee on Expenditures in the Executive Department or upon the request of any seven members thereof.

"This section makes it possible to require any report discontinued by the language of this bill to be resubmitted to either House upon its necessity becoming evident to the membership of either body."

That is the end of the quotation from the Senate report. And it was our conclusion that the legislative history from which the section was derived indicates that its purpose was to serve as a vehicle for obtaining information theretofore embodied in routine annual reports to Congress submitted by the several agencies rather than the extremely broad purpose, which I cheerfully concede is a permissible interpretation of the language itself.

Mr. HORTON. In other words, the Executive has put a very narrow interpretation on that section?

Mr. REHNQUIST. Well, a narrow and entirely justifiable one, I believe, but it's certainly a narrow one rather than a broad one?

Mr. HORTON. Well, what does it mean? What is its meaning?

Mr. REHNQUIST. Well, to me it would mean that the types of annual reports, the requirement of submission to Congress of which was discontinued by section 1 of the 1928 statute can nonetheless be selectively demanded by any seven members of the committee if they wish them.

Mr. HORTON. In other words, that is the limit to which this statute applies?

Mr. REHNQUIST. That is our interpretation.

Mr. MCCLOSKEY. Mr. Rehnquist, the rule that permits you to look at the legislative history applies only when the wording of the statute is ambiguous, that is correct?

Mr. REHNQUIST. It's a rule, but it has its exceptions.

Mr. MCCLOSKEY. Do you know of any legal exception in your experience which justifies looking behind the clear language of section 2954, by the executive branch?

Mr. REHNQUIST. Yes, sir. Well, the executive branch is simply trying to forecast what a court would say in interpreting it.

Mr. MCCLOSKEY. Is there any ambiguity in that statute? This is exceptionally clear language. Can you point to me any ambiguity in that statutory section which would justify seeking explanation of that ambiguity?

Mr. REHNQUIST. I don't think it's that clear.

Mr. MCCLOSKEY. Is there any ambiguity in the section that you should find? Can you read the law specifically so the subcommittee at this point can be aware of the ambiguity which, in your judgment, would require going to the legislative history of the statute?

Mr. REHNQUIST. An executive agency on the request of the Committee on Government Operations in the House of Representatives or of any seven members thereof shall submit any information requested of it relating to any matter within the jurisdiction of the committee.

Mr. MCCLOSKEY. Is there any ambiguity there, Mr. Rehnquist?

Mr. REHNQUIST. I don't think the words "any information" are necessarily that sweeping.

Mr. HORTON. Well, what we have to do is define any information, because, at the present time at least, the Executive has put an interpretation on it to the effect that it has to do only with reports which were discontinued. You may be right, but if we are to seek any type of information other than the type, according to the testimony that you have given, and you are giving a factual legal interpretation of it, then we are going to have to make some changes in our legislation, is that not correct?

Mr. REHNQUIST. To obtain it under that statute, yes.

Mr. HORTON. In other words, when Mr. Reuss wrote his letter signed by several members asking for the report from the committee headed by Dr. Richard Garwin, that was not a subject of the section? It was not a matter included within the section, according to the letter of Mr. Ehrlichman, and also according to the statement that you have made?

Mr. REHNQUIST. That was our interpretation, yes.

Mr. HORTON. And then also, I did not sign the letter, but the letter recently signed and transmitted by Mr. Moorhead and several members of this committee asked to be served with reports from the Department of Defense. It is your interpretation that this also would be without the scope of the interpretation of this particular section, because they are not reports that had been required and then discontinued, is that correct?

Mr. REHNQUIST. If that is the nature of the reports requested. I am not familiar with it, but certainly as you describe it, that would be correct.

Mr. MOORHEAD. Would the gentleman yield?

Mr. HORTON. All right.

Mr. MOORHEAD. I understand the Ehrlichman letter refers to an article dated April 1961, in the George Washington Law Review. I think that it would be important to identify the authors of that article.

Mr. Robert Kramer, footnote in the article, was Assistant Attorney General, United States Department of Justice, 1959–61, and Mr. Herman Marcuse, the other author, was and still is, an attorney, United States Department of Justice, Office of Legal Counsel, in your office, Mr. Rehnquist. I think that their positions at the time they wrote the article are significant.

The second thing that I think should be pointed out is that this statute in question, while originally enacted in May of 1928, was amended and reenacted—on September 6, 1966—so that reenactment and reaffirmation of what I consider this broad and sweeping language should be considered by the Congress and signed by the President, approved this language on two occasions.

I don't see how it could be amended to be any broader. If there is any action, I think it should be tested in the courts.

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Mr. MOORHEAD. Now, the staff has prepared an analysis of two significant cases referred to by Mr. Rehnquist, in his statement; that is, *U.S.* v. *Reynolds*, and *U.S.* v. *Curtiss-Wright Export Corp.*, and I think that staff memorandum should also be inserted in the record at this point. That will be so ordered.

(The memorandum follows:)

MEMORANDUM BY LEGAL STAFF, HOUSE GOVERNMENT OPERATIONS COMMITTEE ON THE STATEMENT OF WILLIAM H. REHNQUIST, ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL COUNSEL, DEPARTMENT OF JUSTICE, TESTIFYING ON EXECUTIVE PRIVILEGE, JUNE 29, 1971

The statement declares: "The right of the Executive to withhold certain types of information from the other coordinate branches has been equally well recognized." It refers to two Supreme Court cases as buttressing that assertion. The first case involves the Government's claim of privilege to resist judicial discovery in a tort claims action: *U.S.* v. *Reynolds* (345 U.S. 1 (1953). The second involves a question of the constitutionality of a delegation by Congress of certain legislative power to the President: *U.S.* v. *Curtiss-Wright Export Corp.* (200 U.S. 304 (1936)).

Both cases should be examined closely, since they support Mr. Rehnquist's declaration above only in a highly qualified fashion (*Reynolds* case) or by remote inference derived from orbiter dicta (*Curtiss-Wright* case).

* * * * *

Mr. MCCLOSKEY. Thank you, Mr. Chairman. Mr. Rehnquist, going back to this letter of Mr. Ehrlichman dated June 20, which is before you now, that letter referred to a report on the SST prepared in 1969 by a committee headed by Dr. Richard L. Garwin, and on June 20, the following year, the White House, through this letter, declined to reveal that report on the SST to a committee of Congress of competent jurisdiction.

If I recall correctly, the administration, at that time, was proposing to the Congress in its budget message, that both the House and Senate approve an expenditure of $290 million in 1970 for the SST.

Now, this brings squarely into focus the question of the lawmaking power of Congress when we are asked to vote for or against the SST, and the right of the executive to withhold a report prepared at taxpayer expense relating to that issue affecting whether we should or should not fund the SST. In your judgment, does the executive privilege, which I believe you said was based—in your testimony, on page 18 yesterday—on the generally recognized premise that the President must be free to receive absolutely impartial and disinterested advice from his advisers.

In your judgment, does the right of the Executive to receive impartial and disinterested advice entitle the Executive to refrain from giving to Congress a memorandum on the very subject which the Congress is to legislate?

Mr. REHNQUIST. Certainly, in many situations, I think it would.

Mr. MCCLOSKEY. What, about the SST, could possibly justify claiming executive privilege for a memorandum prepared by the committee for the President?

Mr. REHNQUIST. I am not familiar with the memorandum itself, nor am I intimately

familiar with the questions that are involved—

Mr. McCLOSKEY. This is the question, Mr. Rehnquist. Can you recall the question that I asked you?

Mr. REHNQUIST. Perhaps the reporter would read it back.

(The reporter read the record as requested.)

Mr. REHNQUIST. If this was a memorandum prepared by way of advice to the President as to whether or not he should recommend the funding of the SST, it is, in my judgment, the sort of advice from a subordinate to the Chief Executive which is covered by executive privilege.

Mr. McCLOSKEY. Even though the Executive is asking the Congress to legislate on the SST, is that your testimony?

Mr. REHNQUIST. Yes. The alternative would be that whenever Congress has a subject of legislation before it, and the administration sends a witness down and says this is our position, Congress would be perfectly free to compel testimony, well, how about A through Z, who all participated in it as to advising him, and how did they reach their opinions, and I think that is exactly what it covers.

Mr. McCLOSKEY. Mr. Rehnquist, first of all, the President, in his letter to the chairman, John Moss of this committee, on April 7, 1969, said that the scope of executive privilege must be very narrowly constructed. Under this administration, executive privilege would not be asserted without specific Presidential approval.

Now, if you extend executive privilege to any recommendation made to the President on an issue of pending legislation, isn't that a broad definition of executive privilege which would cover any report prepared for the President on pending legislation?

Mr. REHNQUIST. I don't think that is a broad construction. I think that is one of the classical areas where most people have agreed that the doctrine applies.

Mr. McCLOSKEY. Well, this committee, headed by Richard Garwin, that was asked for a report on the SST, is that any different from any Presidential adviser or consultant or contractor who is asked to prepare a report on the merits of a pending proposal?

Mr. REHNQUIST. I don't know the circumstances of the Garwin committee report, or how it was contracted for, or who Mr. Garwin is, for that matter. But on the hypothesis that he was making a recommendation to the President as to whether or not something should be done, I think that it doesn't require a broad construction of the doctrine to say that that is within it.

Mr. McCLOSKEY. On a project like highway construction, where one highway engineer within the Department of Transportation prepared a report recommending the highway, and another member of the Department of Transportation prepared a report pointing out defects in the highway proposal, would executive privilege be properly invoked for both reports, in your judgment?

Mr. REHNQUIST. Well, there you are taking it down the line a ways. I mean, many of these recommendations, the highway-type recommendations, are not to the President, they are to one of his subordinates.

Mr. McCLOSKEY. Well, I don't think Mr. Garwin's report was directed to anyone other than the Secretary of Transportation, was it?

Mr. REHNQUIST. I am not familiar with the circumstances.

Mr. McCLOSKEY. Let me make the assumption that the Garwin report which was finally released to the Congress in 1970 was, in fact, a representation to the Secretary of Transportation. Is there any difference between that report and a report prepared by the President himself?

Mr. REHNQUIST. It is a question of degree, I think.

Mr. McCLOSKEY. Let's be precise on this. if Dr. Garwin's committee report was prepared for the Secretary of Transportation, would that, in your judgment, make it subject to executive privilege?

Mr. REHNQUIST. It could, if it was on a subject on which the Secretary of Transportation was expected to advise the President.

Mr. McCLOSKEY. Well, isn't every subject considered by the Department of Transportation investigated on something to ultimately advise the President?

Mr. REHNQUIST. No, I would think the highway thing would stop well below the President.

Mr. McCLOSKEY. What about the SST?

Mr. REHNQUIST. I think that is an example of something that was a Presidential decision.

Mr. McCLOSKEY. The President, in his budget, proposed to us that we fund the SST and also the highway program. I find no difference between the highways and the SST, do you?

Mr. REHNQUIST. Yes, I do.

Mr. McCLOSKEY. What distinction?

Mr. REHNQUIST. Well, that the decision as to where individual highways should be located, or the amounts that should be spent on them, are not things that the President participates in.

Mr. McCLOSKEY. Doesn't he participate when he recommends to the Congress each year a budget message which contains, say, $3 billion for highways? Isn't that his recommendation to the Congress?

Mr. REHNQUIST. I suppose in legal theory, it is, but as a practical matter, that is not the sort of decision that is made by the President or that is ultimately decided by the President.

* * * * *

Because the subcommittee's inquiry is a wide-ranging one, it may be helpful if I outline what I conceive to be three related but different situations, all of which have recently received considerable public notice, and all of which are doubtless of interest to the subcommittee.

The doctrine of executive privilege, as I understand it, defines the constitutional authority of the President to withhold documents or information in his possession or in the possession of the executive branch from compulsory process of the legislative or judicial branch of the Government. This doctrine is implicit in the separation of powers established by the Constitution.

Related to the doctrine of executive privilege, but by no means coextensive with it, is the classification of material in the possession of the executive branch under the provisions of executive orders. These executive orders established rules governing the classification of documents involving national defense information, and prohibit disclosure by executive branch personnel of documents so classified to anyone not authorized to receive them. The Freedom of Information Act, which may be said to have established a "right to know" on the part of the public, as against the Government, exempts from its disclosure requirements "matters that are * * * specifically required by executive order to be kept secret in the interest of the national defense or foreign policy." This exemption in the Freedom of Information Act justifies refusal on the part of the executive to make classified material available to the general public. But the mere fact of classification by itself, of course, does not constitute a sufficient basis for withholding information from a committee of Congress, since most, if not all, congressional committees themselves are fully authorized to receive classified documents.

Third, and particularly in the public eye now, is the extent of the authority of the executive branch to seek the aid of the judicial branch in preventing or punishing the publication of material where such publication would be dangerous to the national security. By hypothesis, in this third situation, the material in question is already in the hands of the potential publisher, so there is no question of the executive being compelled to furnish it in order that it may be published. It is this question, of course, which has been the subject of the current litigation in the cases involving the New York Times and the Washington Post.

I will devote my testimony primarily to the question of executive privilege, and to the matter of compliance with the President's 1969 memorandum, since that is what the Attorney General and I understand that you wish, Mr. Chairman. I will, to the extent of my ability, and to the extent that it will be appropriate, be happy to respond to questions about any other matters which are within my competence.

The Constitution nowhere expressly refers either to the power of Congress to obtain information in order to aid it in the process of legislating, nor to the power of the Executive to withhold information in his possession, the disclosure of which he feels would impair the proper exercise of his constitutional obligations. Nonetheless, both of these rights are firmly rooted in history and precedent.

It is well established that the power to legislate implies the power to obtain information necessary for Congress to inform itself about the subject to be legislated upon, in order that the legislative function may be exercised effectively and intelligently.

The right of the Executive to withhold certain types of information from the other coordinate branches has been equally well recognized. In *Reynolds* v. *United States*, 345 U.S. 1, the Supreme Court upheld the applicability of such a privilege against judicial subpena. The claim of the Executive to withhold this type of information from Congress goes back to the administration of President Washington. In 1792, the House of Representatives embarked on its first effort to investigate the conduct of the executive branch in connection with the ill-fated expedition of General St. Clair into the Northwest Territory. When demand was made upon the Secretary of War for the production of all papers connected with that expedition, President Washington called upon his Cabinet for consultation "because it was the first example and he wished that as far as it should become a precedent, it should be rightly conducted * * *. He could readily conceive that there might be papers of so secret a nature as they ought not to be given up."

The Cabinet concluded unanimously on April 2, 1792, that the House of Representatives had the right to institute inquiries, and that it might call for papers generally and "that the Executive ought to communicate such papers as the public good would permit and ought to refuse those the disclosure of which would injure the public. Consequently we're to exercise a discretion."

That is an excerpt from Jefferson's notes of that Cabinet meeting.

President Washington determined that in this particular instance, the disclosure of the papers would not be contrary to the public interest and instructed the Secretary of War to make the papers requested available to the House of Representatives.

In 1796, in connection with the appropriation of the funds required to carry out the financial provisions of the Jay Treaty, the House of Representatives requested the President to produce the instructions to the Minister who negotiated that treaty. This time, President Washington advised the House that he could not comply with its request.

* * * * *

The nature of foreign negotiations requires caution, and their success must often depend on secrecy; and even when brought to a conclusion a full disclosure of all the

measures, demands, or eventual concessions which may have been proposed or contemplated would be extremely impolite; for this might have a pernicious influence on future negotiations or produce immediate inconveniences, perhaps danger and mischief, in relation to other powers.

As, therefore, it is perfectly clear to my understanding that the assent of the House of Representatives is not necessary to the validity of a treaty; as the treaty with Great Britain exhibits in itself all the objects requiring legislative provision, and on these the papers called for can throw no light, and as it is essential to the due administration of the Government that the boundaries fixed by the Constitution between the different departments should be preserved, a just regard to the Constitution and to the duty of my office, under all the circumstances of this case, forbids a compliance with your request.—Richardson, "Messages and Papers of the Presidents," Vol. I, pp. 194–196.

Since that time virtually every President has had occasion to determine whether the disclosure of information to Congress was appropriate.

The Supreme Court, in *United States* v. *Curtiss-Wright Corp.*, decided in 1936, 299 U.S. 304, 319–321, based its decision in part on the authority of the President to withhold information in the field of foreign relations from Congress, and refers to some of the instances when Congress acknowledged this authority in the President. The disputes between Congress and the Executive over the invocation of executive privilege have not been so much about the existence of the authority, as they have about the extent and manner in which it is exercised.

The President's authority to withhold information is not an unbridled one, but it necessarily requires the exercise of his judgment as to whether or not the disclosure of particular matters sought would be harmful to the national interest. As is the case with virtually any other authority, it has a potential for abuse; but as in the case of other authorities, the potential for abuse has never been deemed a sufficient reason for denying the existence of the authority.

The doctrine of executive privilege has historically been pretty well confined to the areas of foreign relations military affairs, pending investigations, and intragovernmental discussions. I will mention a few pertinent examples, and attempt to indicate the reasoning behind the claim of privilege in each of these fields.

* * * * *

There is another category of situations in which Congress has recognized the validity of claims of executive privilege. They center around what may be called the freedom of the executive branch from legislative interference with its decisionmaking process. It includes the confidentiality of conversations with the President, of the process of decisionmaking at a high governmental level, and the necessity of safeguarding frank internal advice within the executive branch. Here, too, I will advert to some examples.

* * * * *

The reasoning behind the claim of executive privilege in these four classical categories seems to me to be as thoroughly defensible in principle as it is well established by precedent.

In the field of foreign relations, the President is, as the Supreme Court said in the *Curtiss-Wright* case, the "sole organ of the Nation" in conducting negotiations with foreign governments. He does not have the final authority to commit the United States to a treaty, since such authority is reposed in the U.S. Senate and, of course, if implementing legislation is required, that legislation must come from the Congress. But the frequently delicate negotiations which are necessary to reach a mutually beneficial agreement which may be embodied in the form of a treaty often do not admit of being carried on in public. Frequently the problem of overly broad public dissemination of such negotiations can be solved by testimony in executive session, which informs the members of the committee of Congress without making the same information prematurely available throughout the world. The end is not secrecy as to the end product—the treaty—which, of course, should be exposed to the fullest public scrutiny, but only the confidentiality as to the negotiations which led up to the treaty.

The need for extraordinary secrecy in the field of weapons systems and tactical military plans for the conducting of hostilities would appear to be self-evident. At least those of my generation and older are familiar with the extraordinary precautions taken against revelation of either the date or place of landing on the Normandy beaches during the Second World War in 1944.

The executive branch is charged with the responsibility for such decisions, and has quite wisely insisted that where lives of American soldiers or the security of the Nation is at stake, the very minimum dissemination of future plans is absolutely essential. Such secrcey with respect to highly sensitive decisions of this sort excludes not merely Congress but all but an infinitesimal number of the employees and officials of the executive branch as well.

I have summarized earlier in my testimony the reasons given by Attorney General Jackson, and reaffirmed by Attorney General Mitchell, as to the need for confidentiality of open investigative files.

Finally, in the area of executive decisionmaking, it has been generally recognized that the President must be free to receive from his advisers absolutely impartial and disinterested advice and that those advisers may well tend to hedge or blur the substance of their opinions if they feel that they will shortly be second-guessed either by Congress, by the press, or by the public at large.

Again, the aim is not for secrecy of the end-product. The ultimate Presidential decision is and ought to be a subject of the fullest discussion and debate, for which the President must assume undivided responsibility. But few would doubt that the Presidential decision will generally be a sounder one if the President is able to call upon his advisers for completely candid and frequently conflicting advice with respect to a given situation.

I would add, finally, that the integrity of the decisionmaking process which is protected by executive privilege in the executive branch is apparently of equal importance to the legislative and judicial branches of the Government. Committees of Congress meet in closed session to "mark up" bills, and judges of appellate courts meet in closed conference to deliberate on the result to be reached in a particular case. In each of these instances, experience seems to teach that a sounder end result—which will be in the fullest object of public scrutiny—will be reached if the process of reaching it is not conducted in a goldfish bowl.

Indeed, if additional precedent were warranted, the decision of the Founding Fathers to conduct in secret all of its deliberations at the Constitutional Convention of 1787 appears to be very much in point.

While reasonable men may dispute the propriety of particular invocations of executive privilege by the various Presidents during the Nation's history, I think most would agree that the doctrine itself is an absolutely essential condition for the faithful discharge by the Executive of his constitutional duties. It is, therefore, as surely implied in the Constitution as is the power of Congress to compel testimony.

Mr. MOORHEAD. You referred throughout your testimony to the authority of the executive branch to withhold information from Congress. Your legal argument to the authority of the Executive, the President.

Do you claim a power of the executive branch in addition to that of the President to withhold information from the Congress?

Mr. REHNQUIST. No; in my testimony the terms may be used interchangeably, and I think it helps a little to do that, because frequently the information sought, or the documents sought are not in the personal possession of the President, but I do not intend by that interchangeable use to suggest that anybody in the executive branch has a right to say, "I am claiming executive privilege and I will not furnish the document."

* * * * *

Mr. REID. Let me try and narrow my question from the broad principle.

Does the Executive in your judgment have the right to withhold from Congress information that is central to a congressional decision, which information is embarrassing to the Executive because it may not be on all fours with public executive statements?

Mr. REHNQUIST. You mean simply on the ground that it makes the President look bad?

Mr. REID. Yes.

Mr. REHNQUIST. No, I don't believe he does.

Mr. REID. And, equally, you would hold, therefore, that Congress has the right to obtain documents and information—whether it be on the war or on other questions that are fundamental—at a time that it is relatively timely to fundamental decisions?

In other words, let me put it another way.

* * * * *

I can well appreciate the confidentiality of conferences between the chiefs of states, and I don't think anyone would seriously question that. But that right, it seems to me, does not extend to fundamental questions, such as a major change in the direction of a war, nor does this permit the Executive to conceal a change or, indeed, proceed on a basis that would fool the public or mislead the Congress.

Mr. REHNQUIST. Well, insofar as your suggestion that it is undesirable and bad for the President to fool the public or mislead the Congress, I certainly agree with you.

If you mean to say, in addition, that the top-level advice that is recently and currently given to the President is for that reason to be made fully available to Congress by compelling those advisers to testify to it, I think the executive privilege suggests that is not the case.

Mr. REID. Finally, if the Congress in the exercise of oversight function, that I believe it has, determines certain documents have been improperly classified by the executive, that either the Congress or the American people are entitled to know about, would you question at all the right of the Congress to declassify and make public these documents?

Mr. REHNQUIST. The right of Congress on its own initiative to make public documents which had been classified by the executive, but which Congress felt were improperly so classified?

Mr. REID. That is correct.

Mr. REHNQUIST. Yes, I would question that right.

Mr. REID. Well, I would merely hold that I think the Congress does have that right.

Thank you very much for your testimony.

Mr. REHNQUIST. When I say I question it, Mr. Reid, I don't mean to say that I have thought the thing through. But it certainly isn't apparent on the face of it to me that Congress has that right.

* * * * *

Mr. REID. Permit me to turn to your testimony on page 1. You state that:

"The doctrine of executive privilege, as I understand it, defines the constitutional au-

thority of the President to withhold documents or information in his possession * * *"

You say a little further on.

"This doctrine is implicit in the separation of powers established by the Constitution."

When you say "implicit" you do not mean absolute, I take it.

Mr. REHNQUIST. I meant it is not stated in the Constitution; it is implied from the structure of the Constitution, and certainly it is not absolute in the sense that the President could willy-nilly withhold any number of things requested by Congress just because he did not feel like giving them.

Mr. REID. And there, of course, the Congress has the clear right to compel the production of those documents if they are central to the congressional purpose. And merely the Executive's embarrassment should not trigger a claim of executive privilege. The only point I make here today is that Congress does not necessarily recognize the right of the executive privilege in the extent that claim may be made for it, and different Members have evaluated this differently. It has to be a relatively narrow privilege not in conflict with congressional rights. But I detect from your testimony that you think that it is a rather broad executive privilege; am I incorrect in that?

Mr. REHNQUIST. Well, I suppose it is the old question of compared to what?

Mr. REID. Compared with coordinate balance between the Congress and the Executive. It should not be so broad that it conflicts with congressional powers and rights.

Mr. REHNQUIST. No; and I think generally it does not. I think there are conceivably cases where Congress is pursuing a very legitimate legislative investigation and where there is no question of Congress' right to obtain information generally in the area. Nonetheless, if a particular document were sought which may be quite relevant to the investigation by the standards of *McGrain* v. *Daugherty*, even a conservative justification of executive privilege could justify the withholding of that document, if the President should determine that its disclosure would jeopardize the national security.

Mr. REID. On page 2, if you look at your testimony there, you say,

"These Executive orders establish rules governing the classification of documents involving national defense information, and prohibit disclosure by executive branch personnel of documents so classified to anyone not authorized to receive them."

Would you hold that to be the case if the documents were improperly classified?

Mr. REHNQUIST. The question arises, what is meant by improper classification? The Ninth Circuit decided in a case last year on the Freedom of Information Act that the only review the courts would make of an executive classification was whether it was arbitrary or unreasonable. They would not attempt themselves to decide whether it should have been classified in the manner it was.

Mr. REID. Well, leaving aside the question of the mechanics, would you hold this is a privilege even though the document was improperly classified by any reasonable test? We in the Congress would not hold that you had that right if they were improperly classified.

Mr. REHNQUIST. I think if one can show that the classification was arbitrary or unreasonable—maybe that is just a paraphrase perhaps of what you are saying—that the provisions of executive orders as to dissemination would probably not govern.

Mr. REID. Now, in connection with that, are you familiar with section 18 of the Executive order?

Mr. REHNQUIST. Not word for word.

Mr. REID. Specifically it provides that:

"The head of each Department and agency shall designate a member or members of his staff to conduct continuing review of the implementation of directives within the Department or agency concerned, to insure that no information is withheld here under which the people of the United States have a right to know * * * and will insure that the information is properly safeguarded in conformity therewith."

Is there anyone in the Justice Department charged with the responsibility of a continuing review of the classification used by that Department?

Mr. REHNQUIST. I think that Mr. Nelson in the Internal Security Division is the Department security officer and is the person who is primarily responsible for the administration of that provision of the order.

Mr. REID. Might I turn to page 4 of your testimony, in which you refer to a case, *Reynolds* v. *United States:*

"The right of the Executive to withhold certain types of information from the other coordinated branches has been equally well recognized."

As I read your comment there, you are talking about the right of the Executive to withhold information. And the Court held in that case, as I understand it—the Supreme Court held in *United States* v. *Reynolds*—that such claims are not conclusive, the Court saying:

"The Court itself must determine whether it is appropriate for the claim of privilege."

In other words, the Court in the case which you cited held that that was not the ultimate determination of the Executive, but that the Court ought to see whether the Executive had properly interpreted and exercised the rights that he might have in that regard.

Mr. REHNQUIST. I wouldn't read any of that language from *Reyonlds* quite that way, Mr. Reid. I have read it as meaning that the general area must be an appropriate one for the claim of executive privilege, not that the Court would itself review and determine for itself whether the thing was properly classified.

* * * * *

Mr. Moss. Let me ask about the power of the court to enforce this against Congress. Let's go to another area. Supposing we keep a considerable body of information classified within the Executive Department and the Congress becomes impatient to get over the red-tape involved in getting access to this, and is faced with the clear fact that it has lost confidence in the objectivity of the executive in classifying information. Couldn't the Congress, by conditioning appropriation, deny any funds for the custody, use, and preservations of such records within the executive department?

Mr. REHNQUIST. I think the appropriations power is so extensive that very, very likely, Congress should include some such provision.

Mr. Moss. Now, that is why I refer to this as a gray area. At no point in our history have we ever gone to the mat to test the final power, but I would like to illustrate that the Congress does have, of all the branches of government, it can withhold funds from the courts. It has the power of impeachment. It has powers given to neither of the other branches.

If there is a doctrine inherent in the Constitution, we in the Congress have the doctrine of oversight. We exercise the residual powers of the people, unless they expressly exercise them.

Mr. REHNQUIST. Well, I have some trouble with the idea that the Congress has a sort of residual power from the people and the President has none.

Mr. Moss. I would think so. I realize this is very broad and far-fetched, but we seem to be dealing in a lot of that in asserting a very broad executive privilege which, stripped of all of its trappings, and in the final analysis, the President alone determines the national interest and what the Congress can have, and I don't buy that.

I think there is a concurrent authority for the Congress, if it wants to be as insistent as the Executive, to compel the production of the information it seeks. Would you challenge that?

Mr. REHNQUIST. Do you mean a concurrent authority which would overrule a legitimate claim of executive privilege?

Mr. Moss. I don't know what a legitimate claim of executive privilege is. I know what we finally accommodated to. This committee, working with President Nixon, as with his two immediate predecessors in office, has arrived at a narrowed basis of accommodation of executive privilege, as asserted by the Executive. It is not implied that the committee recognizes that there is a valid claim, but within the scope of that claim there is a means of accommodating; isn't that correct?

Mr. REHNQUIST. Yes; I think so.

Mr. Moss. Certainly, if the Congress were to enact a statute which spelled out a system of classification and specified that be the only system of classification, that would dominate, or do away with the classification under Executive Order 10501, wouldn't it?

Mr. REHNQUIST. Yes; I think Congress could supersede Executive Order 10501 so long as it didn't infringe on the constitutional prerogatives of the President.

Mr. Moss. Well, the President has a very real constitutional responsibility imposed upon him to take care that the laws are faithfully executed, and if that was a law he would have just as much of a mandate to take care that it did be faithfully executed as he would to enforce the Internal Revenue laws, wouldn't he?

Mr. REHNQUIST. Unless he felt the law were unconstitutional.

Mr. Moss. You mean he is going to act as a separate Supreme Court and determine that a law is unconstitutional? Wouldn't he follow the processes of law to determine whether or not that law was unconstitutional?

Mr. REHNQUIST. Well, I think the processes of law in that case would be to somehow submit the matter to the courts.

Mr. Moss. That is correct. You would go to the courts, not the President. And he wouldn't make that unilaterally and have that binding on anyone, would he?

Mr. REHNQUIST. No.

Mr. Moss. Then he would be bound to take care, unless and until the courts determined that the law exceeded the constitutional authorities of the Congress?

Mr. REHNQUIST. I don't believe necessarily that in the interim he would be obligated in the manner you indicate. I think he would have a right to take appropriate steps to have the law tested.

Mr. Moss. Of course he would have a right to test it. I wouldn't question that. That is the system of Government by law that I believe is certainly inherent in the Constitution.

Mr. REHNQUIST. I do, too.

Mr. Moss. That is why I say he would not unilaterally move to achieve this objective. He would do it through the courts, and it would become unconstitutional only if the courts concur with his contention; isn't that correct?

Mr. REHNQUIST. Certainly.

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Mr. ERLENBORN. Thank you.

In that case then, Mr. Chairman, I will proceed.

Mr. Rehnquist, I want to thank you for your appearance and your testimony. If I ask any questions that you feel get into areas of the litigation, please feel free to so comment.

I would like to ask you what I consider to be a rather broad background question.

First of all, there is the question of freedom of the press that is quite current today. Not referring to this litigation, but to the general principle, is freedom of the press complete and absolute or are there limitations, as the court has already found there are limitations on freedom of speech?

Mr. REHNQUIST. Well, I can certainly give you my interpretation from reading that I have done in the field. Certainly the *Near* case, headed some 40 years ago, indicates that there are some limitations to freedom of the press.

Mr. ERLENBORN. The question then I think becomes to whom does freedom of the press extend? Is this a right to be exercised by the so-called working press, or is it a right that exists in the people?

Mr. REHNQUIST. I think under our Constitution legally it extends to the working press, but I think in a philosophical sense it exists to benefit not the working press but to benefit the public at large.

Mr. ERLENBORN. So if you do attribute this to the working press, then we have some unresolved questions as to how you define the working press. I have always wondered when the press used that term "working," who they had in mind as "nonworking press." But beyond that, would you think that the underground newspaper mimeographed on the college campus comes within that classification, or would I as an individual using a Xerox machine come within that classification?

Mr. REHNQUIST. I think the question, though it is difficult to answer in the terms you pose it, is perhaps more easily answerable if you consider that the freedom of speech is protected in the same way as freedom of the press, and I can't imagine any idea or piece of news or statement of opinion however put forth, that wouldn't be protected either by freedom of the press or freedom of speech.

That is not to say that either one is absolute, but I think the mechanics by which it is expressed are not controlling.

Mr. ERLENBORN. You are saying, I take it, that they are somewhat extensive viewed in the same light and are subject to the same limitations. In other words, those things that you should not be able to express through freedom of speech because that area is circumscribed would also be circumscribed under the freedom of the press? Would that be a legitimate conclusion?

Mr. REHNQUIST. I wouldn't want to be held to it precisely. I think there are intimations in some Supreme Court cases that a type of inflammatory oratory in a large group, such as being in effect told, "Let's go burn that building across the street down," might not be subject to the protections of the first amendment, whereas a more abstract pamphlet of the same nature might be.

That may not be a good example, but I do think there are some distinctions.

Mr. ERLENBORN. Now to get the question of what limitations can be exercised. We hear the phrase, "prior restraint" relative to the first amendment and freedom of the press.

Is the Government system of classification of documents in itself sort of prior restraint?

Mr. REHNQUIST. Not in my opinion. I think prior restraint in the sense it is used in talking about the constitutional right of the press means a restraint on the press to print information which is already in its hands and does not extend, at least in the same broad scope, to the right of the press to obtain information which is not presently in its hands.

Mr. ERLENBORN. Prior restraint then might be limited to a judicial restraint?

Mr. REHNQUIST. I think that is the only restraint of that sort that could exist in this country.

N. Excerpts from testimony at hearings on Executive impoundment of appropriated funds, before the Senate Subcommittee on Separation of Powers (1971).

Mr. REHNQUIST.

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But this, I think, is not the kind of question that presents difficulty. The question is where either Congress is not clear in the intent with which it writes a statute, or in the case where that Congress is crystal clear—take the language that Congressman Vinson from Georgia sought to introduce into the military appropriations bill for fiscal 1963, that the Defense Department, in effect, is directed, mandated—and uses all the mandatory words possible. Surely in the latter case there is no question as to what the intent of Congress is. Then the question becomes one of whether, given a mandatory intent on the part of Congress, the Executive has a right to impound.

In the question of trying to find a mandatory intent on the part of Congress, it is not a question of looking for the word "shall" as opposed to "may." Our office, in the memo that was published in the Congressional Record in December 1969, concluded that in providing for certain formula grants for schools—I think it was impacted aid, but I am not sure—Congress had indicated that these were to be spent, not necessarily because it said they shall be spent, but just from taking the overall language of the authorization bill, the enabling statute if there was one in the particular appropriations language, and construing them together to try to find on a reasonable basis what intent Congress manifested.

Well, when it comes to the action of the Executive in these situations, I take it that it is conceded that the President, as I believe Mr. Weinberger suggested yesterday, must consider all the laws in determining whether or not spending is mandated in a particular case. That is not to say that Congress could not pass a law saying notwithstanding the provisions of any other law. I think that is the way that the Arizona Legislature used to draft at least half its laws. I do not think it is a happy form of draftsmanship, but presumably, Congress could, if it wanted to, exempt from the provisions of all other laws a particular appropriation. I think many would feel that was not a wise action, but there is no doubt of Congress' power to do it. But in the absence of language of that sort, you have the provisions of the Anti-deficiency Act, the provisions of the Debt Ceiling Act, and, conceivably, other laws likewise would be relevant in trying to determine from all the circumstances what was the intent of Congress with respect to this particular piece of appropriations legislation.

If, on the basis of consideration of all the laws, the conclusion is that the intent of Congress was to mandate the spending, then our office has taken the position, in the memorandum I previously referred to, that the President is not at liberty to impound in the case of domestic affairs which have no national defense or foreign policy considerations. This is not the position of the Department of Justice. The Department of Justice, through the Attorney General, has taken no position on the matter and it is not the position of the administration. I think the administration, as such, as an institution, has not taken any position on the matter. But that, nonetheless, was and is the position of our office under the particular circumstances there.

But if one gets into the area of national defense spending, I think from the debates in the fiscal 1963 Military Appropriations Act, it is clear that more than one Senator expressed the view that the President had authority in the area of national defense, by virtue of his constitutional standing as Commander in Chief, which might permit him to withhold in that area where he could not have in the strictly domestic area. In fact, I would go further and say that certainly Members of Congress from time to time have taken the view that Congress can't force the President to spend money of any sort. Congressman Laird, before he became Secretary of Defense, and Congressman Flood from Pennsylvania, during debates in Congress in October of 1968, both expressed that view.

So when I say the Office of Legal Counsel has taken the position that the President must spend in the domestic area when it is clearly mandated that he do so, I recognize that there are views to the contrary and that this is not an easy question or one that admits of no argument on the other side.

In the foreign affairs field, also, there is probably an exception, though it is not anything one would want to opine on until he had a problem before him. But given the foreign affairs power of the President and a case like the *Curtiss Wright* case, which certainly indicates that the President's power in that area is quite different from the domestic field, I think a different conclusion could well be reached.

I think that Thomas Jefferson, when he was President, objected to Congress appropriating money to pay specific salaries to his ambassadors. His view was that Congress, under the doctrine of separation of powers, ought to appropriate a lump sum for the payment of ambassadors and he would decide who got what. That battle was never renewed, so far as I know, and I think it was resolved in favor of congressional specification. But it is some indication of the fact that people right there at the founding of the country, someone like Jefferson, felt that foreign affairs powers were quite different than the power of the President in domestic affairs.

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Professor JOHNSON. What recourse does the Congress have if the President does impound funds despite a mandatory appropriation?

Mr. REHNQUIST. That is not an easy question to answer. I think Congress, as such, probably does not have judicial recourse. Whatever recourse it is has a political one. If the act of Congress is sufficiently clear that identifiable beneficiaries were intended to get the funds, that those beneficiaries may have some sort of legal action to compel the allocating of the funds to them I think has to be regarded as a debatable question. I think 20 years ago, one would have said there simply is not that right in any beneficiaries, but with the expansion of the doctrine of standing, I think you cannot be quite so confident of it now.

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Professor STOLZ. Assuming that the Department is prepared to approve this bill, do you see any objection to broadening it to include the Comptroller General instituting an action to prevent an illegal impoundment?

Mr. REHNQUIST. I can see a good deal of objection from the point of view of the Executive. Traditionally, there has been rivalry between the Comptroller General and the Attorney General. By the way that things are set up, the Comptroller General is basically an agent of Congress and the Attorney General is an agent of the Executive. And every time you confer additional authority on the Comptroller General, you are subtracting something from the executive branch. I am sure the executive branch would not take the position that you must never subtract anything. But I think it would want to look very carefully at what was being subtracted.

Professor STOLZ. Well, I suppose that the theory behind this measure is an alternative to what the chairman was talking about as a way of resolving these disputes as they come up, a somewhat more legitimate, polite way than the internecine use of political clout.

Is there any real objection—if that is the theory of it and the Department is preparing to accept it with respect to illegal expenditure—is there any reason why they should not be prepared to accept it with respect to illegal nonexpenditures?

Mr. REHNQUIST. I think the separations are distinguishable. I think the claim of the Comptroller General to get in at the beginning of a dispute over whether money should be expended, where he contends that it can be expended, is a logical extension of his power to audit accounts, which is the basic power conferred on him under the Budgeting and Accounting Act of 1921, whereas I think nothing in his power to audit accounts suggests to the same extent that he have the authority to force expenditures. I mean, if you do not spend money that you ought to spend, presumably, your accounts are not going to be surcharged.

Professor STOLZ. That is true, they are not going to be surcharged, but it is at least possible that it is just as illegal not to spend money as it is to spend it improperly.

Mr. REHNQUIST. I suppose, speaking in the abstract, that it could be. In theory, one might be obligated to spend just as surely as he is obligated not to spend.

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Professor BICKEL. Maybe Congress did not choose to make that a case. But it seems to me a different case from what is now the very broad area of foreign relations, where all kinds of monies are appropriated for all kinds of purposes, and if that whole area is put in a special position, this is a rather slender foundation to rest that argument on.

Passing on to the war power, I am even more puzzled. It is difficult for me to see why, as Commander in Chief, with his independent powers to command the Army and the Navy and the Air Force, why that means that if Congress appropriates money for 50 bombers and he decides he does not need 50 bombers, even though Congress appropriates it in mandatory fashion, which is the only real case we are talking about, he can override it. Whereas in what seems to me an even more crucial case, from the point of view of the Commander in Chief function, if Congress fails to appropriate money for the 50 bombers and he figures he needs them, he cannot generate the money and spend it. Either way, it seems to me the Commander in Chief is subject to the will of Congress. He commands whatever the Congress provides or fails to provide.

Mr. REHNQUIST. You have a specific thing in the Constitution that no money shall be withdrawn from the Treasury unless appropriated by Congress. Certainly a more general power such as the power of the Commander in Chief would not be construed, I should not think, to override that. But you do not have the same categorical direction at all in the Constitution as to whether the President must spend where Congress has appropriated. That is much more doubtful.

Professor BICKEL. One wonders about that. That brings us to the basic constitutional position. But one wonders whether the power of Congress to make laws, which is stated, of course, in substantive terms and implies the power to spend the money that is appropriated and appropriate the money necessary to carry out such purposes. The very distinctly stated duty of the President to execute laws, just as distinct as the prohibition against spending money that is not appropriated by law, referring it back to section 8 of article 1 for the affirmative power of the Congress—the distinct duty of the President to execute the law is just as distinct as the prohibition against spending unappropriated money. One wonders why that does not mean that he is to carry out the laws of the Congress. When Congress says spend $50 million, he spends $50 million, because that is not just—because behind that is always, in the constitutional scheme, a substantive policy, which is the law. That is really the law which he is supposed to carry out in substantive policy.

Now, you know, in modern times, problems have arisen and a practice has arisen that indicates that that is not enough. Those simplicities are not enough. Problems arise after the money has been appropriated and some mind has to be applied to them and a judgment has to be made. And it is that practice that we are here dealing with. But the original constitutional position seems to me to go across the board and to be all in favor of Congress.

Mr. REHNQUIST. Well, to say that because the President is required to take care that the laws be faithfully executed, that he simply has a ministerial duty to carry out whatever law Congress has passed regardless of the fact, say, that it may, in his opinion, and quite justifiably, infringe on some constitutional prerogatives of his, is not an idea you would subscribe to.

Professor BICKEL. No, I certainly would not. Nor did I suggest that.

Mr. REHNQUIST. But you are saying that the authority to take care that the laws be faithfully, or his direction to take care that the laws be faithfully, executed is by itself some sort of direction to him to simply carry out the will of Congress without regard to—

Professor BICKEL. Certainly; it is the only foundation upon which one can argue that when Congress passes a statute establishing Social Security Administration and medicare or something, and says, this is the policy and this is how we want people taken care of—the only foundation for saying that the President, after having vetoed the law—well, take a specific example. Congress passes the Internal Security Act of 1952, or the Taft-Hartley Act, and the President vetoes it and Congress overrides his veto. The only foundation for saying that the President can't impound that policy is that the Constitution says he is charged with taking care that the law is executed. Now, that does not mean he does not have any discretion, he does have an Executive function, nor does it mean that Congress can override the Executive function. They cannot come in and tell him how to execute it or monitor his directives to his subordinates. As you say in one opinion, Congress can't come in between the President and the Commissioner of Education. It can't speak to the Commissioner of Education over the President's head. It can't, in other words, shortcut the Executive function. But it sets the policy. That is what is meant by law and the position is that the President has to carry it out or Executive discretion reaches farther than I am sure you would argue that it ought to reach.

So my problem is that I have difficulty seeing where the power of the Commander in Chief or the power of foreign relations as such cuts into this general scheme and allows for the argument that whereas a mandatory appropriation in the domestic field would have to be obeyed, a mandatory appropriation to buy tanks or to hand over $50 million to Israel or Saudi Arabia does not have to be obeyed.

Mr. REHNQUIST. Well, I think it gets difficult to probably make an impression on one or the other in the abstract. I do think it is clear beyond dispute that, for instance, a number of Senators during the 1963 debate made a point that the power of Congress to compel spending in the national defense area, where you are talking about whether you are going to have additional planes or not, is not the same as its authority in the domestic field. And I suspect that I could cite examples from either the foreign affairs field or from the defense field where Congress can't compel the President to act, whether it be spending money or otherwise, to the same extent it can in the domestic field.

Now, given that difference——

Professor BICKEL. If I may interrupt, Mr. Rehnquist, I would dispute that except as you come to very specific functions that can be defined as those of the Commander in Chief, just as very specific functions can be defined as those of an Executive which the separation of powers prevent Congress from taking over. Congress can't tell you who should command a regiment, who should command a division. It can't tell you how to command those troops tectically or, if you will, strategically. But I do not follow that this has a sort of vague, continually outgoing reach. It has been the fashion since World War II, I think, to regard the foreign affairs and war power as sort of interminable vistas that reach out into an undefinable future and I think one of the salutary things about the day we are living in now is that people are reexamining that and reexamining the rather vague, general, and indiscriminate statements of the past that of course, the Commander in Chief, or of course, the President is in charge of foreign relations, and he can do virtually anything.

Mr. REHNQUIST. I fully agree with you.

Professor BICKEL. Maybe we had better stop right there.

Mr. REHNQUIST. Maybe we had.

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Mr. REHNQUIST. Senator, certainly so far as the power of the purse being the power to insist that money be appropriated before it is spent, I do not have the slightest doubt and I take it that no one who has studied the matter would. I think it is a more difficult question when you start talking about the power to compel money to be spent.

Let me, if I might, pose an example that would certainly trouble me and I would hope it would trouble those who are partisans of the other view. Supposing Congress appropriates a million dollars and says it has to be spent to equip all the people in regiment "A" with blue uniforms and the President decides he does not want blue uniforms on regiment "A." Now, I think, clearly within his power as Commander in Chief, he has a right to prescribe the mode of dress of that regiment. Can he be compelled to spend that money even though he is perfectly free under the Constitution to refuse to use the proceeds of it?

Senator ERVIN. I respectfully disagree with you, because I think the power to make rules for the Government and regulation of the land and navy forces includes the power to say what kind of uniforms they should wear if Congress should so specify. I think the President is authorized to direct their fighting and authorized to direct them when they are called out to suppress insurrections. I think that is the power of the Commander in Chief, but not to determine whether their uniform shall be blue or some other color.

Professor BICKEL. It seems to be something going more to the heart of the function of the commander is discipline, is it not? Yet the Constitution happens to provide on that subject. It is Congress which decides that a breach of discipline gets tried by a jury of a man's peers or gets tried by six majors and one colonel or what the penalty for it is or whatever. Because Congress is given that power specifically by the Constitution. I think all that is reserved is what you can define as the power to command and what is left of the power of command after you carve out the things that belong to Congress.

Mr. REHNQUIST. I do not agree with the view that power to make regulations governing land and naval forces would go as far as you suggest.

Professor BICKEL. You do not agree?

Mr. REHNQUIST. No.

Professor BICKEL. If it is enacted by Congress, the President could not decide not to enforce it.

Mr. REHNQUIST. I would suggest as far as the Congress suggested it, it would go.

Professor BICKEL. If you are living under a constitution where Congress can say what

the means are for enforcing discipline on your troops, you have swallowed the camel. That certainly should enable you to swallow the gnat of Congress also saying what kind of uniforms they ought to wear.

Mr. REHNQUIST. No, I do not think that follows. I think it is two different kinds of things.

Professor BICKEL. A camel and a gnat.

Mr. REHNQUIST. I do not agree that they are so different in size.

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Professor MILLER. I ask Mr. Rehnquist what he sees in the inherent Executive power of the Commander in Chief and foreign affairs? Do you find any limits at all that you can perceive, Mr. Rehnquist?

Mr. REHNQUIST. I would not speak of it as inherent Executive power.

Professor MILLER. Excuse me. Then where does it come from?

Mr. REHNQUIST. The power of the Commander in Chief and the foreign affairs power that is impliedly conferred by the Constitution, is certainly recognized in the *Curtiss-Wright* case.

Professor MILLER. As a matter of technical law, Mr. Rehnquist, what Mr. Justice Sutherland said in that case was dicta, was it not, not necessary to the case itself? You are relying on a pretty flimsy straw when you rely on *Curtiss-Wright*. I know it is about all you have.

Mr. REHNQUIST. Well, we have a nearly unanimous opinion written by Sutherland, and concurred in by Brandeis and Cardozo. I would not regard that as flimsy.

PROFESSOR MILLER. I mean the language about the delegation of the power to the Executive. What the *Curtiss-Wright* case, in effect says, is that the National Government has all the powers of any sovereign, despite the Constitution's basic theory that the National Government is one of limited delegated power. That is the import, it seems to me, of the *Curtiss-Wright* case. It does not really go to the question of the division of powers between the President and Congress and to rely on it for presidential power seems to me is going far beyond what the court said.

Mr. REHNQUIST. It may be carrying it beyond what was necessary for the holding of the case, but the Court speaks in terms of the President, not of the National Government when it is talking about the foreign affairs power.

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Professor MILLER. Let's jut stay with the expression of the Senate, at least, that there should be no ground troops in Cambodia or Laos.

Professor WINTER. For any purpose?

Professor MILLER. All right. I am just asking whether or not the Commander in Chief power would go as far as thought desirable?

You are putting forth the theory of Executive power which has a good deal of political theory behind it, of course. The English term for it is "reason of state." There are certain areas where the President does have a sort of inherent power where he can act, without regard to law or without regard to anything else. I am asking whether you think in that context, whether you believe, could the President flout or ignore what Congress wants and quietly say, "I am going to send troops in anyway?"

Mr. REHNQUIST. Giving the widest latitude to the discussion format that the chairman has set up, which I appreciate and think is very valuable, I nonetheless think that as an officer of the administration, it would be inappropriate for me to express a view on something that particular and specific in a format like this. Let me try in another way to answer the question.

Supposing instead of the Cooper-Church amendment, the Congress had passed a law or a resolution saying that in no circumstance should another assault be made on "Hamburger Hill." To me, that would be a rather clear invasion of the President's power as Commander in Chief.

Professor MILLER. Why is it clear? To be clear, you have to have standards to judge by. All I am asking for are the standards. Where do you find them and who sets them out or do you set them out in each case that comes along?

Mr. REHNQUIST. I think that you try to find them from historical precedents, from what was meant by the Framers at the time they gave the Commander in Chief power to the President, and from reasoning from other provisions of the Constitution. It is the most difficult area of all of the Constitution, I think, because it is amorphous. But I think it was designed by the framers to be amorphous and we just have to wrestle with it the best we can.

O. Exchange of Correspondence Between William Rehnquist, Assistant Attorney General and Edward M. Kennedy, a Senator from Massachusetts Concerning Pocket Vetoes (1970).

WASHINGTON, D.C.,
December 29, 1970.

Hon. JOHN N. MITCHELL,
Attorney General, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: As you know, on December 26 it was announced that the President would not sign S. 3418, the "Family Practice of Medicine Act," and that the bill would therefore be subject to a "pocket veto," under which Congress would have no opportunity to reconsider the legislation in light of the President's objections.

Whatever the merits of this particular bill—and I strongly supported it in the Senate—the President's action raises extremely serious questions that far transcend the bill itself and that go to the heart of the distribution of power under the Constitution between Congress and the Executive Branch with respect to the enactment of Federal legislation. Surely, contrary sporadic practice notwithstanding, the Pocket Veto provision of the Constitution—Article I, Section 7, Clause 2—was intended to apply only in circumstances involving an adjournment *sine die* at the end of a Congress or at the end of a session of Congress, and was not intended to apply to brief adjournments of Congress during a session such as the recent Christmas period. This is all that the leading decisions of the Supreme Court appear to have held. See *Wright* v. *United States*, 302 U.S. 583 (1938); *Pocket Veto Case*, 279 U.S. 655 (1929). Indeed, in *Wright* v. *United States*, the Supreme Court expressly suggested that the Pocket Veto provision might not be applicable in a case involving a brief adjournment within a session.

In light of the discrepancy between the theory and practice involving the Pocket Veto provision, I would be grateful to receive a clarification of the Administration's position on this issue.

Sincerely,

EDWARD M. KENNEDY.

DEPARTMENT OF JUSTICE,
Washington, D.C., December 30, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: The Attorney General has asked me to reply to your letter to him of December 29 relating to the pocket veto of S. 3418, inasmuch as I had given the advice to the White House that under the circumstances a pocket veto by the President would be appropriate.

In your letter you state that the pocket veto "was intended to apply only in circumstances involving an adjournment *sine die* at the end of a Congress or at the end of a session of Congress, and was not intended to apply to brief adjournments of Congress during a session such as the recent Christmas period. You also state that "in *Wright* v. *United States*, the Supreme Court expressly suggested that the pocket veto provision might not be applicable in a case involving a brief adjournment within a session." Suggesting a "discrepancy between the theory and practice involving the pocket veto provision", you have requested a clarification of the Administration's position on this issue.

The position of this Administration on the "pocket veto" issue is, as nearly as I can determine, entirely consistent with that of preceding Administrations which have considered the question. The two decided Supreme Court, cases, both of which are cited in your letter, have, with one exception, pretty well marked out the boundaries of the pocket veto power, and in my opinion the President's exercise of that power in declining to sign S. 3418 conforms both to these judicial precedents and to the consistent practice of other Presidents during the last quarter century.

The Pocket Veto Case, 279 U.S. 655 (1929), decided by a unanimous Court, seems to me to have expressly rejected your contention that the pocket veto provision was intended to apply only in circumstances involving an adjournment *sine die* at the end of a Congress or at the end of a session of Congress. Although the adjournment of Congress there involved was for a period of several months, it was neither an adjournment at the end of the session nor at the end of the Congress, since the Senate adjourned on July 3rd until November 10th, while the House adjourned on July 3rd *sine die*. Notwithstanding the difference in length of time of adjournment between that case and the situation respecting S. 3418, the Court in the *Pocket Veto Case* was required to interpret the following language from the constitutional provision authorizing the "pocket veto": ". . . if any bill shall not be returned by the President within 10 days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law." (Art. I § 7, United States Constitution.)

The bill which was pocket-vetoed by President Coolidge in the *Pocket Veto Case* had been presented to him on June 24, 1926, and the adjournment of Congress took place on July 3rd. The Court said:

"The specific question here presented is whether, within the meaning of the last sentence—which we have italicized—Congress by the adjournment on July 3rd prevented the President from returning the bill within ten days, Sundays excepted, after it had been presented to him. If the adjournment did not prevent him from returning the bill within the prescribed time, it became a law without his signature; but, if the adjournment prevented him from doing it, it did not become a law. This is unquestioned." 279 U.S. at 674.

The Court went on to say that the term "adjournment" as used in the constitutional provision authorizing pocket vetoes did not refer only to the final adjournment of Congress. It pointed out in support of this conclusion that the word "adjournment" is used both in section 5 of Article I in reference to the power of a smaller number than the majority of each House to "adjourn" from day to day, and in the fourth clause of the same article, in reference to the prohibition that neither House during the session of Congress shall, without the consent of the other, "adjourn" for more than three days.

The Court then stated:

"We think that under the constitutional provision that the determinative question in reference to an 'adjournment' is not whether it is a final adjournment of Congress or an

interim adjournment, such as an adjournment of the first session, but whether it is one that 'prevents' the President from returning the bill to the House in which it originated within the time allowed. It is clear, and as we understand it, it is not questioned, that since the President may return a bill at any time within the allotted period, he is prevented from returning it within the meaning of the constitutional provision, if by reason of the adjournment it is impossible for him to return it to the House in which it originated on the last day of that period." 279 U.S. at 680.

The Court then concluded that since Congress had adjourned prior to the expiration of the ten day period given President Coolidge by the Constitution in which to decide whether or not to veto the particular bill there involved, the pocket veto provision became operative. It seems clear to me that the Court's decision did not turn on the length of the adjournment, any more than on its finality, but that it turned instead on the fact that the adjournment commenced within the ten day period allotted to the President by the Constitution to decide whether or not to veto the measure in question.[1]

The most recent formal expression on the pocket veto provision appears in the opinion of Attorney General Biddle of July 16, 1943, 40 Op. A.G. 274. The Attorney General after reviewing the cases and the historical practice, advised President Roosevelt that an adjournment of Congress within a session was an occasion for a pocket veto.

In the memorandum on the same subject transmitted to the White House in November, 1968 by my predecessor in this office, the precedents then existing were summarized in this language:

"The experience of the past quarter of the century discloses the following practice. If the tenth day (Sundays excluded) after the presentation of the bill fell into a period in which neither House was in session, Presidents uniformly exercised their pocket veto power, even if the period of adjournment were short, or if Congress reconvened on the day following expiration of the constitutional period."

The following instances were relied upon in support of this statement:

(1) In the spring of 1944, the Congress adjourned from April 1st to April 12th. A private bill had been presented to the President on March 30, 1944, 90 Cong. Rec. 3380. The tenth day (Sundays excepted) following the day of presentation was April 11, 1944, i.e., the day preceding the reconvening of the Congress. On that day, President Roosevelt signed a memorandum of disapproval. The bill was considered to have been pocket-vetoed. 90 Cong. Rec. 3408.

(2) In the spring of 1956, both Houses of Congress adjourned from March 29th to April 9th. A private bill had been presented to the President on March 22nd, and the tenth day following the day of presentation was therefore April 3, 1956. President Eisenhower withheld his approval from the bill, and it was considered to have been thereby pocket-vetoed as of April 3, 1956. 108 Cong. Rec. Index 732.

(3) In the summer of 1964, both Houses of Congress adjourned from August 21 to August 31 during the Democratic presidential nominating convention. A private bill had been presented to the President on August 14, 1964, and the tenth day following the day of presentation was August 26, 1964. President Johnson signed a memorandum of disapproval on August 24, 1964, which was communicated to the House of Representatives on September 2, 1964. 110 Cong. Rec. 21409.

Most recently, in the summer of 1968, President Johnson pocket-vetoed a bill relating to cotton importation during an adjournment of both Houses of Congress of approximately one month. 4 Weekly Comp. Pres. Docs. 1222.

Similar precedents may be found going back a good deal further than the quarter century period covered in the memorandum described above. Those which occurred prior to 1928 are collected in House Doc. No. 493. 70th Cong. 2d Sess. They include pocket vetoes during Christmas adjournment of Congress by Presidents Andrew Johnson, Benjamin Harrison, and Grover Cleveland.

In *Wright* v. *United States*, 302 U.S. 583 (1938), a majority of the Court held that where only one House had adjourned, and the adjournment of that House was for a period of only three days, "Congress" as that term is used in the constitutional provision authorizing pocket vetoes, had not adjourned, and therefore a pocket veto was not available to the President in that situation. The Court's majority declined to speculate on the result if one House had adjourned for more than three days.[2]

The Court in *Wright* summarized its ruling in these words:

"We hold that where the Congress has not adjourned and the House in which the bill originated is in recess for not more than three days under the constitutional permission while Congress is in session, the bill does not become a law if the President has delivered the bill with his objections to the appropriate officer of that House within the prescribed ten days and the Congress does not pass the bill over his objections by the requisite votes." 302 U.S. at 598.

In the situation confronting President Nixon with respect to his disapproval of S. 3418, both Houses of Congress had adjourned for a period of longer than three days—the Senate from December 22nd to December 28th, and the House from December 22nd to December 29th—and by their adjournment had prevented the President from having the full ten day period allotted him under the Constitution to decide whether or not to veto in the ordinary manner the bill in question. In my opinion, therefore, on these facts the general rule of the *Pocket Veto Case*, rather than the exception to that general rule carved out in the *Wright* case, governed, and the President was not only authorized to exercise a pocket veto, but if he wished to disapprove it at all, he very probably had no choice as to the form of veto.

You state in your letter that the President's action raises extremely serious questions that far transcend the bill itself and go to the "heart of the distribution of power under the Constitution between the Congress and the Executive branch with respect to the enactment of federal legislation". While I believe that the President was on very firm legal ground in taking the action he did, there is no doubt that the use of the pocket veto power has been a bone of contention between the President and the Congress throughout the years. Indeed, the *Pocket Veto Case, supra,* apparently resulted from an effort on the part of the House of Representatives to repudiate the traditional interpretation of the pocket veto clause—by then more than a century old—and to limit the exercise of that form of veto to the final adjournment of Congress. This effort on the part of the House was, of course, unsuccessful. Again in 1940, Congress passed a bill, H.R. 3233, 76th Congress, which purported to repeal as of the date of their "enactment" all bills and joint resolutions which prior to the beginning of the 76th Congress had been pocket-vetoed, during an adjournment of the Congress other than a final adjournment. President Roosevelt vetoed the bill on the ground that it was inconsistent with the constitutional practices going back to President Adams, as well as with the Supreme Court's interpretation of the Constitution in the *Pocket Veto Case*, 88 Cong. Rec. 8024. The veto was sustained.

Thus, while the Administration's position with respect to presidential use of the pocket veto provision is largely at odds with the position taken in your letter, I believe it is consistent both with the decided cases and with quite well established historical practice.

Yours very truly,

WILLIAM H. REHNQUIST,
Assistant Attorney General, Office of Legal Counsel.

P. Article by William Rehnquist, "The Making of a Supreme Court Justice," Harvard Law Record October 8, 1959.

THE MAKING OF A SUPREME COURT JUSTICE

(By William H. Rehnquist)

(NOTE.—This article was written shortly before Mr. Justice Stewart was named to the Supreme Court. It was delayed by the editors, pending his confirmation by the Senate.)

The Supreme Court of the United States is now in the midst of one of the storms of criticism which have periodically assailed it. Bills have been introduced in Congress to limit the jurisdiction of the high court, to overrule some of its controversial non-constitutional decisions, and to declare the sentiment of the Senate as to the necessity of judicial background on the part of a nominee to the Court. It has been urged that the "advice" of Senate be sought by the President before any nomination to the Court is made.

Criticism of the Supreme Court can easily become frustrating to the critics, because the individual justices are not accountable in any formal sense to even the strongest current of public opinion. Nonetheless, it ill behooves the critics of the present Court to seek imposition of new curbs on it until such controls as now exist are fully tested and found wanting.

Specifically, until the Senate restores its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him, it will have a hard time convincing doubters that it could make effective use of any additional part in the selection process.

As of this writing, the most recent Supreme Court Justice to be confirmed by the Senate was Charles Evans Whittaker, Examination of the Congressional Record for debate relating to his confirmation reveals a startling dearth of inquiry or even concern over the views of the new Justice on constitutional interpretation. Mr. Justice Whittaker was nominated by President Eisenhower in

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[1] The Court in that case also said (though the statement does not appear to have been necessary to its holding) that even though one or both Houses of Congress were to authorize an agent to receive messages from the President, "the delivery of the bill to such officer or agent . . . would not comply with the constitutional mandate." 279 U.S. at 684. While *dicta* is not entitled to the same weight as is a holding, the fact that the language is subscribed to by a unanimous Supreme Court, and the fact that it is found in one of the only two cases from that Court dealing with the question, make it the best available authority on the point.

[2] The Court majority in *Wright* rejected the argument that because the originating House was the one which had adjourned for three days, the President was prevented from returning the bill within the meaning of the constitutional language. While some of its reasoning, in so doing, if lifted out of context, could be said to undercut the reasoning in the *Pocket Veto Case*, the fact that the *Wright Court* reserved the question of the effect of an adjournment of even one House alone for more than three days would indicate that its language is to be confined to the fact situation there presented.

March, 1957. *Brown* v. *Board of Education* (the Segregation Cases), 347 U.S. 483, had been decided three years before, and implementing decisions had been handed down in the interim. *Slochower* v. *Board of Higher Education*, 350 U.S. 551, where the Court held by a vote of 5–4 that the New York School Board could not fire a teacher for the reason that he had invoked the Fifth Amendment before a Congressional Committee, had been decided less than a year before. At the moment of Whittaker's nomination, the services of cases involving the rights of Communists to be admitted to practice law in a state and to refuse to answer questions put to them by legislative investigating committees was pending on the docket of the Supreme Court,[1] of antisocial activities.

If any interest in the views of Mr. Justice Whittaker on these cases was manifested by the members of the Senate, it was done either in the cloakroom or in the meeting of the Judiciary Committee. The discussion of the new Justice on the floor of the Senate succeeded in adducing only the following facts: (a) proceeds from skunk trapping in rural Kansas assisted him in obtaining his early education; (b) he was both fair and able in his decisions as a judge of the lower federal courts; (c) he was the first Missourian ever appointed to the Supreme Court; (d) since he had been born in Kansas but now resided in Missouri, his nomination honored two states.

Given in addition the fact that Mr. Justice Whittaker had been an eminently successful courtroom lawyer, the fact that he had been a leader in the activities of the organized bar, and the fact that he had been very highly regarded as a judge of the lower federal courts—all of which he was—the Senators could still have no indication of what Mr. Justice Whittaker thought about the Supreme Court and segregation or about the Supreme Court and Communism.

Less than thirty years before, the Senate had made no bones about its concern with the judicial philosophy of a Supreme Court nominee. Then, too, the Supreme Court was nearing the vortex of a storm—but it was a storm raised by the very groups who are claimed to be the special wards of the Warren court. State and federal laws regulating minimum wages, maximum hours, and other business practices were being struck down by the Court as violative of "freedom of contract;" a freedom which, the Court said, was embodied in the phrase "due process of law." The labor injunction, the strike as a conspiracy, and the "yellow-dog" contract were in their heyday. When, in February, 1930, President Hoover sent to the Senate the name of Circuit Judge John J. Parker to be Associate Justice of the Supreme Court, he sparked one of the most remarkable battles over a judicial nomination in the history of the upper chamber.

Objections to Parker's confirmation were at once voiced by two groups: organized labor, and the National Association for the Advancement of Colored People. Labor's objection was based on Parker's opinion, as a judge of the Circuit Court of Appeals for the Fourth Circuit, in the so-called "Red-Jacket" case.[2] His opinion for that court had upheld an injunction forbidding certain union organizers from attempting to organize a mine, and thereby induce the employees of the mine to breach their "yellow-dog" contracts. The objection of the NAACP stemmed from a campaign speech made by Parker in 1920, while running for governor of North Carolina on the Republican ticket. In this speech he had said:

"The Negro, as a class, does not desire to enter into politics. The Republican party of North Carolina does not desire him to do so. We recognize the fact that he has not yet reached the stage in his development where he can share in the burdens and responsibilities of government. This being true and every intelligent man in North Carolina knows that it is true . . . the participation of the Negro in politics is a source of danger to both races."

No very definite issue developed as to the campaign speech. It seemed agreed by most of the participants in the debate that the statements were understandable in the context of North Carolina politics, but that from a hindsight born with Parker's nomination for national office they would much better have been left unsaid.

As to the labor injunction, though, precise battle lines were drawn and the issue was debated in editorial columns, in masses of letters and telegrams to the Senate Judiciary Committee, and finally on the floor of the Senate. The most surprising fact about this great debate of 1930 was that none of the protagonists on either side doubted that the question should be: What were Parker's views on labor injunctions and yellow dog contracts? *The New York World*, in opposing Parker's confirmation, probably spoke for both sides when it said editorially on April 23, 1930:

"The Senate has every right, if it so chooses, to ask the President to maintain on the Supreme Court bench a balance between liberal and conservative opinion in the country as a whole, and every right on this premise to object that the presence of Judge Parker on the bench would increase, rather than lessen, the top heavily conservative bias of the Supreme Court as now constituted."

Most of the participants further agreed that the result reached by the Court of Appeals in the "Red-Jacket" case was undesirable; Parker's antagonists contended that he approved the result, or at least never batted an eye in reaching it, while his defenders claimed that he was bound by controlling decisions of the Supreme Court on the question, and as a judge of an intermediate appellate court had no choice but to follow them.

A few glittering generalities were hurled by each side, but to a remarkable degree editorial writers, members of the bar, and Senators engaged in a case-by-case analysis of the law as Parker found it when he had written the "Red-Jacket" opinion three years previously. The administration stood squarely behind its nominee, and Attorney General Mitchell even prepared a legal memorandum reaching the conclusion that Parker had no choice in writing the opinion that he did. On the Senate floor, the forces in favor of confirmation were nominally led by Senator Overman from the nominee's home state of North Carolina. But though Overman did a prodigious amount of work behind the scenes, he took little part in the debate on the law. The forces opposing confirmation were led by Senator William E. Borah of Idaho.

Senator Borah's principal speech began in the afternoon of one day and concluded the following day. The first part of it, before any requests to yield were made, occupies nine of the full, closely printed pages of the *Congressional Record*. Borah spoke to a question charged with emotion and public interest, and on which most of the demagogic fireworks were in the armory of his side. Yet his speech is anything but rabble rousing. Instead it is a closely reasoned, masterful exposition of the role of the Supreme Court in our system, coupled with an analysis of the precedents in an attempt to show that Parker must have reached his "Red-Jacket" result by choice, since the controlling cases did not compel it.

Almost any reply to Borah would have been anti-climactic, yet Senator Gillett of Massachusetts gave the Idahoan no quarter. He did not quarrel with the propriety of the inquiry, but he took vigorous issue with Borah's interpretation of the state of the law as Parker found it. In what appears to be an even closer reading of the cases than Borah's Gillett ably defended the proposition that Parker was doing only what the Supreme Court decisions required him to do. After extended debate, the Senate refused to confirm Parker by a vote of 41–39.

Several times during this debate Senator Borah made clear his views as to the nature and scope of the Senate's inquiry into the philosophy of a Supreme Court nominee. In his principal speech, he mentioned that the case of *Hitchman Coal Co.* v. *Mitchell*, 245 U.S. 229, upholding the legality of "yellow-dog" contracts, had been decided thirteen years earlier by the Supreme Court. At this point he was interrupted by Senator Carter Glass of Virginia:

GLASS. "And we have sat here all these years and permitted that to remain the law?"

BORAH. "No; we have tried by an Act of Congress to repudiate that principle, but the Supreme Court of the United States said that our action was null and void. Mr. President, that is what makes this matter so very important. They pass upon what we do. Therefore, it is exceedingly important that we pass upon them before they decide upon these matters. I say this in great sincerity. We declare a national policy. They reject it. I feel I am well justified in inquiring of men on their way to the Supreme Court something of their views on these questions."

Again, during the debate on Parker's confirmation, Borah said:

"Upon some judicial tribunals it is enough, perhaps, that there be men of integrity and of great learning in the law, but upon this tribunal something more is needed, something more is called for, here the widest, broadest, deepest questions of government and governmental politics are involved."

Surely the first part of this last quotation epitomizes the Senate's attitude, as manifested in discussion on the floor, toward the confirmation of Mr. Justice Whittaker. His integrity, his learning, his success at the bar, would be the only necessary subjects of inquiry in the case of a judge appointed to a lower court. Indeed, perhaps no further inquiry would be proper in the case of a judge of a lower court. He is not there to apply his own judicial philosophy, willy-nilly, to the litigants before him, but rather to decide the case of those litigants by application of the principles laid down by higher courts. Such a process involves the use of the same ability to reason by analogy as lawyers call on constantly, and therefore the legal ability of an appointee to a trial court is of paramount importance.

Similarly, in the case of the judge who actually tries the case, we do not expect a decision between individual litigants strictly in terms of popular sentiment. The people through their legislative representatives enact what laws they will, subject to constitutional limitations. But once a law is written, neither the people nor their representatives are further consulted as to what was meant by it; the written words, together with relevant background material, are interpreted by a presumably impartial judge. Democracy ends at the courthouse door, and Joe Doaks is not to be imprisoned simply because a majority of the people sitting in the jury box or on the courthouse steps think he should be.

These reasons suggest that the primary concern with an appointee to an inferior fed-

[1] *Schware* v. *New Mexico Board of Bar Examiners*, 353 U.S. 232; *Konigsberg* v. *State Bar of California*, 353 U.S. 252; *Watkins* v. *U.S.*, 354 U.S. 178; *Sweezy* v. *New Hampshire*, 354 U.S. 254.

[2] *International Organization, United Mine Workers* v. *Red Jacket Consolidated Coal & Coke Co.*, 4th Cir., 18 F2d 839, decided April 18, 1927.

eral court should be his ability to apply rules laid down by more authoritative sources, rather than his feeling as to whether this material is right or wrong. But in the case of the Supreme Court, the "something more" which Borah spoke of comes into play. I would prefer to interpret this phrase, not as meaning that it takes more ability to be a Justice of the Supreme Court than a judge of the lower federal courts, but rather that there are additional factors which come into play in the exercise of the function of a Supreme Court Justice.

The Supreme Court, in interpreting the constitution, is the highest authority in the land. Nor is the law of the constitution just "there," waiting to be applied in the same sense that an inferior court may match precedents. There are those who bemoan the absence of *stare decisis* in constitutional law, but of its absence there can be no doubt. And it is no accident that the provisions of the constitution which have been most productive of judicial law-making—the "due process of law" and "equal protection of the laws" clauses—are about the vaguest and most general of any in the instrument. The Court in *Brown* v. *Board of Education*, supra, held in effect that the framers of the Fourteenth Amendment left it to the Court to decide what "due process" and "equal protection" meant. Whether or not the framers thought this, it is sufficient for this discussion that the present Court thinks the framers thought it.

Given this state of things in March, 1957, what could have been more important to the Senate than Mr. Justice Whittaker's views on equal protection and due process? It is high time that those critical of the present Court recognize with the late Charles Evans Hughes that for one hundred seventy-five years the constitution has been what the judges say it is. If greater judicial self-restraint is desired, or a different interpretation of the phrases "due process of law" or "equal protection of the laws", then men sympathetic to such desires must sit upon the high court. The only way for the Senate to learn of these sympathies is to "inquire of men on their way to the Supreme Court something of their views on these questions."

RURAL ELECTRIFICATION NEEDED IN ALASKA

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. BEGICH. Mr. Speaker, the development of rural electrification is an extremely important program in Alaska. When I testified before the Subcommittee on Farm Credit and Rural Electrification of the Senate Agriculture Committee on October 26, 1971, I said that Alaska is the potentially richest supplier of energy in the United States, but also we are the most underdeveloped power-rich State in the Union. Much has been done in this area, but there is much more to be done. For continuing progress, we must turn to the National Rural Electric Cooperative Association for aid and assistance. They realize the problems involved in this area and are working to solve them with the knowledge accumulated across the Nation.

Every year the rural electrification systems hold regional meetings to discuss mutual problems and to discuss avenues of action on these problems. This year there were 389 farm and rural leaders at the regional meeting and they represented 93 cooperatives from the States of Alaska, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

These men are dedicated to the task of providing for the needs of the rural electrification system. I have received a copy of the resolutions that were passed at the October meetings, and I believe it is important that we turn to these resolutions for guidance. I am sure that my colleagues will find the following resolutions educational and valuable:

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION

REGION IX—SPOKANE, WASH.,
October 10–12, 1971.

9–1. REAFFIRMING PAST ACTIONS

Resolved, we reaffirm our support of the Continuing Resolutions be adopted at the NRECA Annual Meeting at Dallas, Texas, February, 1971, subject to the following deletions and amendments:

Be it resolved that the following Continuing Resolution be deleted:

17. *Hydroelectric Development of Snake River*

Be it resolved that the following Continuing Resolutions be amended as shown:

5. *Preference Principle.* Change "Federally-financed nuclear projects" to "Federally-financed power facilities or portions of power facilities".

18. *Payout Status of Colorado River Storage Project.* Change last sentence to "We also urge the Bureau of Reclamation to make available to all preference customers definitive marketing criteria and rates on all interim power of proposed projects in ample time for the area preference customers to avail themselves of this power."

32. *Rural Telephone Program.* We reaffirm our support for the rural telephone program and pledge our backing of adequate REA telephone loan appropriations, as determined and recommended by the National Telephone Cooperative Association, and we pledge support to the newly-formed Rural Telephone Bank.

38. *Rural Housing.* We recommend that the level of the Farmers Home Administration insured housing program be set at 300,000 units a year beginning with the current fiscal year so as to make possible the achievement of the rural part of the national housing goal set by Congress in 1968. We urge NRECA, statewide associations, power supply and distribution systems to continue their vigorous support of the National Rural Housing Campaign which in large measure has been responsible for the tremendous momentum gained by the FmHA rural housing program during the past year.

48. *Safety Accreditation.* Delete period after the word "program", and add the following phrase: "and as a step towards compliance with the Federal Occupational Safety and Health Act of 1970."

Be it further resolved that the following resolutions be added to the list of continuing resolutions:

63. *Reorganizing USDA.* We recommend that as an alternative to the Administration's proposal for reorganizing the Department of Agriculture out of existence that the USDA be given the official overall responsibility for the mission of rural development which it is obviously better suited to perform than any other existing or proposed department by virtue of its rural and farm orientation, its long experience working with rural people, and its extensive local field operations. Further, we recommend that Congress devise a comprehensive, nationwide rural development program to be undertaken by the Department of Agriculture with provisions for additional components that the USDA will require along with provisions for expanding existing components and for changes or innovations in existing USDA structure that will be necessary to insure success.

64. *Community Facilities.* We recommend that the Farmers Home Administration insured water and sewer loan program beginning in fiscal 1972 be set at a level of $750-million and that the accompanying grant program be set at $250-million. Water and waste disposal systems for rural America are especially essential for the sound orderly growth and ecology of the country. We urge rural electric systems to help develop, support, and organize such services as necessary and to provide necessary management, maintenance and other technical assistance to them as appropriate to maintain their feasibility.

65. *Streamline FmHA.* We urge Farmers Home Administration to streamline its administrative procedures in order to increase the productivity of its local county offices involving such things as standardization of regulations, enlisting the assistance of third parties in preparing loan documents, and contracting for as much of the detail work of servicing loans as possible. We also urge the Congress to appropriate adequate funds for additional FmHA personnel in order to handle the agency's tremendously expanded workload.

66. *Mobile Home Standards.* Because there is no required national uniform inspection or certification program for mobile homes, we encourage member systems to seek adoption as a minimum standard of their state government, the industry standard for Mobile Homes, A119.1, American National Standards Institute.

67. *Anti-Trust Laws.* We urge Congress to give high priority to strengthening the nation's anti-trust laws to the effect that encroachment in any manner upon territory served by rural electric cooperatives, and by municipal, and other publicly owned nonprofit distribution systems would be restraint of trade and at the expense and detriment of local people and their locally owned systems.

68. *Geothermal Resources.* We urge the Congress to amend the present law on disposition of geothermal resources underlying public lands, first, to provide that the U.S. Geological Survey shall explore and assess the magnitude of such geothermal resources; and secondly, to establish by law policies governing the disposition of such resources to prevent monopoly control over them and to assure preference in their sale to publicly owned and consumer-owned power systems.

69. *National Power Grid.* We reaffirm our support for development of a national power grid capable of moving large blocks of electricity back and forth across the country as may be required to meet load requirements; with various segments of the system to be owned and operated by individual electric systems or voluntary combinations of such systems without limitation as to type of ownership, and in such manner as to preserve the pluralistic character of the industry and the integrity of individual participating systems. The capacity of the grid should be planned so as to accommodate the needs of all systems desiring to participate in its utilization. We support and urge construction and operation by the Federal government of such transmission facilities as are necessary segments of a national power grid, but are uneconomic in terms of return necessary to justify private investment.

70. *Women's Action.* We strongly urge that women be made equals in the rural electrification program. Women can and must be placed in positions of leadership. They should be nominated and elected to the board of directors of our electric cooperatives. They can competently serve on advisory commit-

tees and aid effectively in special projects sponsored by the systems. We especially recommend that all systems develop an active program to involve women in cooperative governmental affairs committees. We recognize the need for zealous interest in consumer affairs. Women are substantial users of electricity and are the major purchasers of appliances, furniture, clothing, foods and other supplies used in the home. Our cooperatives must offer assistance, aid in securing educational resource persons and materials, and support efforts by women in securing better laws and protection for the consumer.

9–2 ESSENTIALITY OF REA LOANS AT 2-PERCENT INTEREST AND CFC PROGRAM

Whereas, many people's needs for modern central station electric service are being met only because of the Federal program of loans at two percent interest to consumer-owned rural electric systems, and

Whereas, the economic development of rural areas, especially those which are, either because of economic problems or declining population or both, disadvantaged, is possible only if those areas have electric service on a par with that of more fully developed areas at fully competitive rates, and

Whereas, the rural electric systems which borrow capital from the Rural Electrification Administration sign and carry out agreements—in return for the privilege of borrowing at an interest rate of two percent—to serve customers in remote areas on the same basis as those living near the sources of electric power, and

Whereas, many systems have expressed their willingness to supplement their REA loans with higher cost capital, and have for this purpose organized and invested in their own self-help supplemental financing institution, the CFC (National Rural Utilities Cooperative Finance Corporation);

Now, therefore, be it resolved that we oppose any and all efforts to phase out the REA program in its present form with interest rates at two percent;

Be it further resolved that we petition the Administration and the Congress to provide adequate funds for loans at two percent interest to meet the full capital requirements of both distribution and power supply cooperatives serving areas suffering from lack of population or from economic underdevelopment while at the same time meeting the basic requirements in all other rural service territories;

Be it further resolved that we pledge our cooperation with each other to assure the success of our supplemental financing operation through CFC and to assure adequate funding for the REA program in its present form.

9–3. FARM CREDIT LEGISLATION OF 1971

Whereas, the credit needs of agriculture and of rural America continue to grow and have changed significantly since the original Farm Credit System laws were enacted, and

Whereas, the Commission on Agricultural Credit, a panel of 27 farm and rural leaders which included NRECA General Manager Robert D. Patridge, conducted a 10-month study of present and future credit needs of farmers and rural communities which resulted in recommendations for modernizing and expanding the scope of the Farm Credit System's lending operations to meet the changing needs of rural America, including the growing need for loans for rural farm and non-farm homes and home improvements, and

Whereas, these recommendations are the basis for the Farm Credit legislation introduced in the first session, 92nd Congress, and approved by the Senate;

Now, therefore, be it resolved that we commend the Commission on Agricultural Credit for its forward looking recommendations in this area, the Farm Credit Administration for translating these recommendations into proposed legislation and the Senate for passing the Farm Credit legislation;

Be it further resolved that we urge the House of Representatives to act promptly and favorably on the bill as passed by the Senate;

Be it further resolved that a copy of this resolution be sent to the Members of Congress representing this Region.

9–4. RURAL HEALTH

Whereas, the health of rural people is jeopardized by a shortage of doctors, dentists and nurses by the emphasis being placed in the medical profession on the training of specialists rather than the training of general practitioners, by the absence or inadequacy of hospitals and other medical facilities in many rural areas, and by the rapidly escalating cost of medical services, and

Whereas, this situation poses a serious problem to rural people, which, if not corrected now, will reach crisis proportions as the rural doctors now in general practice retire;

Now, therefore, be it resolved that we urge the medical profession to train more doctors and nurses, including general practitioners;

Be it further resolved that we in the rural electric program work with other groups on programs to improve rural medical facilities and hospitals and to encourage doctors to enter the practice of medicine in rural America.

9–5. ENVIRONMENTAL REGULATIONS

Whereas, the rural electric cooperatives serve electricity to the rural areas over transmission and distribution lines that cover great expanses of the Federal and State land in Western United States, and,

Whereas, each rural electric cooperative is interested in the environmental problems facing both Federal and State governments and is desirous of supporting regulations, fair, reasonable and consistent, and,

Whereas, it appears that there is a developing problem of complexity, duplication and delay in electric power line construction because of regulations enforced by the various responsible public agencies, and,

Whereas, the rural electric cooperatives deem it appropriate to support the environmental movement with constructive suggestion.

Now, therefore, be it resolved, that the appropriate Federal and State environmental control agencies are hereby urged to adopt and implement appropriate simplified regulations and procedures that recognize particular problems inherent in western public land areas that eliminate the duplication of Federal and State regulatory controls, that give greater authority and flexibility to local area offices, and that recognize the difference between distribution and transmission lines.

Be it further resolved, that a sincere effort be made to keep the costs of complying with environmental regulations from defeating the basic purpose and intent of the Rural Electrification Act, including the concept of area coverage.

9–6. BPA SERVICE TO PREFERENCE CUSTOMERS

Whereas, consumer-owned power distribution systems are classified as preference customers under the Bonneville Act, and as such are entitled to service from the Bonneville Power Administration under established BPA rate schedules, and

Whereas, Elmhurst Mutual Power & Light Company; Alder Mutual Light Company; Ohop Mutual Light Company; Parkland Light & Water Company; Eatonville Power & Light Company; Town of Milton; Town of Fircrest; Town of Steilacoom; are consumer owned systems which meet the qualifications of preference customers but have been unable to obtain service from the Bonneville Power Administration, and

Whereas, under present circumstances these systems are unable to directly share in the benefits and responsibilities of participation in regional power supply programs as are the customers of BPA, and

Whereas, it is the feeling of the NRECA Region IX Session Committee that this right to participate in direct Federal power supply by all or any consumer-owned utilities under local autonomy in utility service should be maintained, and

Whereas, the above systems desire to become Bonneville customers; therefore be it

Resolved, that we strongly urge the Administrator of BPA to accept these systems as customers and take steps necessary to provide service to them either directly or by wheeling agreements at the earliest possible date.

9–7. ELECTRIC RESEARCH

Whereas, we recognize the urgent need for electric power research and development programs, particularly for the Liquid Metal Fast Breeder Reactor, and

Whereas, voluntary contributions are being solicited which will be most helpful for this purpose, and we urge all systems in Region IX to contribute, but

Whereas, vast sums will be required to carry on adequate research and development programs for new concepts in generation, transmission and distribution methods, including the LMFBR;

Now, therefore, be it resolved, that we urge that intensive legislative efforts be made to obtain adequate funds from as broad a public base as possible, preferably through Federal appropriations.

9–8. KEEPING G-T A VIABLE FORCE

Whereas, Generation-Transmission loans are, and have been from the beginning, a most vital element in the REA program because they have provided the rural electric systems with an effective bargaining leverage and have given the systems a realistic alternative when existing power suppliers refuse to provide wholesale power on acceptable terms and conditions, and

Whereas, this bargaining leverage is even more important to the rural electrics today as they have to struggle to survive in an industry where technology and economics are putting a dangerous squeeze on the smaller electric systems, and

Whereas, the G-T program cannot serve as a bargaining tool if wholesale power suppliers can feel assured that Congressional and/or Administrative policy decisions will put a lid on G-T loans;

Now, therefore, be it resolved, that we respectfully urge both Congress and the Administration to support the G-T program that it might continue to be a viable force, recognizing that REA has never had adequate funds for this job but also recognizing that the need for help at the wholesale power negotiating table is now greater than ever.

9–9. NATIONAL FUEL POLICY

Whereas, the United States is currently experiencing a progressively worsening shortage of fossil fuels, including natural gas, coal and oil, which threatens the ability of electric utility systems to meet their public responsibility of providing reliable service, and

Whereas, this shortage has been accompanied by sharp increases in gas, oil and coal unit prices of from 50 percent to 100 percent, and

Whereas, there exists a significant interlock of corporate control over the production and processing of otherwise competitive power plant fuels; for example, nine major oil companies, which also produce large quantities of natural gas, hold substantial interests in the coal, oil shale and uranium industries, and

Whereas, such interlocking control could reduce or eliminate price competition between various fuel types, thereby raising the cost to the American public of nearly all goods and services, and

Whereas, certain types of anti-trust law violation can, as a practical matter be prosecuted only by the Federal Government, which in some cases is also uniquely capable of preventing repetitions of such violations;

Now, therefore, be it resolved that we urge the President, the Congress, the Federal Trade Commission and the Department of Justice to explore all avenues which may uncover evidence of potential violations of existing anti-trust laws in the fuel industry, to vigorously prosecute all such violations and to enact laws designed to prevent future abuses of the economic power peculiarly inherent in large energy companies;

Be it further resolved, that:

(1) We urge the Federal Trade Commission to investigate the mergers of major oil and coal companies, and urge Department of Justice cooperation in such investigations;

(2) We urge the Department of Justice to conduct a grand jury investigation of coal prices;

Be it further resolved that we urge the President and the Congress to take all further measures necessary to assure the nation of an adequate fuel supply in future years, including limitation on export of coal and removing restrictions on import of oil.

9–10. NUCLEAR FUEL ENRICHMENT

Whereas, the U.S. Atomic Energy Commission has abandoned its long-established policy of performing nuclear fuel enrichment services at a price reflecting actual cost to the Government of the work involved, and has initiated new fuel enrichment pricing criteria based on the hypothetical cost of rendering such service in a new, privately constructed and operated plant, including allowances for taxes foregone, return on private investment and the private cost of borrowed capital, and

Whereas, the Controller General of the U.S. and the U.S. Attorney General are in disagreement as to the legality of AEC's new fuel enrichment pricing criteria, and

Whereas, the apparent justification for AEC's new enrichment pricing criteria is a desire to suppress widespread objection to the Administration's announced goal of selling AEC's fuel enrichment plants to private owners, and

Whereas, private operation of such plants would substantially further raise the price of nuclear fuel, thereby increasing the nation's electricity bill by approximately $1-billion per year;

Now, therefore, be it resolved, that we strongly oppose AEC's revised nuclear fuel enrichment price criteria, and urge prompt passage of legislation requiring that such prices be based on actual cost incurred by the Government in providing the service.

9–11. NATIONAL ENERGY POLICY

Whereas, the economic and social structure of our country is dependent upon an abundant and reliable supply of electric energy, and

Whereas, the people in many parts of the Nation live in constant danger of blackouts and brownouts, and

Whereas, the Nation's requirements are increasing 100 percent every 10 years, much faster than supply facilities are being expanded, and

Whereas, industry and commerce, which take 60 percent of our total consumption of electric energy, can expand only when and where they can get adequate electric service, and

Whereas, the American laboring man and woman increase their productivity by using ever-increasing amounts of electric energy—the present amount used by the average worker being equal to the labor of 560 persons, and

Whereas, increases in generation and transmission of electric power are inhibited by many factors including environmental problems, inadequate supplies and high prices of desirable fuels, a trend toward monopolistic control of energy sources, inadequate technology in the production and use of new fuels and in extra high voltage transmission, and lack of a national power grid, and

Whereas, our national resources can be marshalled and allocated properly to meet the power crisis only if the Nation develops a national power policy;

Now, therefore, be it resolved that we give our utmost support to the prompt development of a national energy policy aimed at ensuring all Americans an abundant, dependable, enduring supply of electric power at lowest possible cost consistent with conserving our environment and resources;

Be it further resolved, that we seek the active help of all groups and individuals who are, or can be made aware of their vital stake in such a policy;

Be it further resolved that we ask the major political parties and candidates for national office to take policy positions on this matter to the end that during the next campaign there will be a fair debate of the issues leading to affirmative action in the next Congress.

9–12. EXTENSION OF DEFERMENT PERIOD ON REA LOANS

Whereas, the House and Senate Committee on Appropriations in reporting in the Department of Agriculture Appropriations for fiscal 1971, and again for 1972, endorsed the self-help supplemental financing organization, National Rural Utilities Cooperative Finance Corporation (CFC), established by REA rural electric systems borrowers, and

Whereas, both Appropriations Committees expressed interest in encouraging rural electric systems to invest in CFC and urged REA to assist its borrowers to make such investments;

Now, therefore, be it resolved, that the rural electric systems of this Region support the concept of deferment of principal payments on loans beyond the present three-year allowance with the understanding that rural electric borrowers requesting and receiving such extended deferment invest amounts equivalent to the deferred quarterly principal payments on such loans in Capital Term Certificates of CFC.

9–13. COOPERATIVE-MUNICIPAL COOPERATION

Whereas, the electric cooperatives which are assisted by the Rural Electrification Administration require continued assistance to serve the more sparsely settled and remote regions, and

Whereas, it would provide rural electric cooperatives a distinct advantage in serving their customers with low cost electric service if they could jointly participate with municipal utilities in issuing bonds to finance an electric generating station, and

Whereas, Representative Vernon Thompson has introduced legislation which would amend Section 103(C) of the Internal Revenue Code to include rural electrics among exempt person, thus making them eligible to buy power from electric plants financed with tax exempt bonds without jeopardizing the tax status of the bonds,

Now, therefore, be it resolved, that NRECA strongly endorse Representative Thompson's legislation and urge the members of the rural electric cooperatives take an active role in supporting this legislation.

9–14. ELECTRIC RATES

Whereas, the concept of lowest cost electricity has proved to be an important factor in the development of our Nation and the improvement in the standard of living of our citizens, and

Whereas, the cost of electricity is an important element in the cost of all goods and services, and

Whereas, numerous power companies and Federal power agencies have announced their intentions to seek substantially higher power rates, and

Whereas, these proposed higher rates will inevitably result in continued inflation;

Now, therefore, be it resolved, that while we recognize that increased costs experienced by power suppliers do mean that some increase in electric rates may be inevitable, we reaffirm our support of the concept of lowest-cost power; and

Be it further resolved, that we urge the Administration, as a part of its avowed policy of combatting inflation, to do all within its authority to hold the line on electric power rates of Federal Power Marketing Agencies, and

Be it further resolved, that the Administration use its good offices to discourage power companies from seeking massive rate increases, and

Be it further resolved, that we deplore the current high level interest rates which are feeding inflation and raising the cost of all goods and services, including electric power rates, and we urge prompt action to lower rates from their present unconscionable levels, and

Be it further resolved, that we commend Congressman Wright Patman of Texas for his continuing efforts.

9–15. HUNGRY HORSE PROJECT

Whereas, the Hungry Horse Project Act of 1944 is applicable throughout Montana, and power from or attributable to the Hungry Horse Project shall be made available throughout Montana by means of requirements contracts between Montana rural electric cooperatives and appropriate Federal power marketing agencies;

Now, therefore, be it resolved, that we urge the Secretary of the Interior to request Congress for appropriations to construct transmission lines or enter into transfer agreements with the owners of transmission lines from other Federal dams in Montana to rural electric cooperatives; and

Be it further resolved, that we urge that the wholesale price of power throughout eastern Montana be the same at each point of delivery regardless of whether power is delivered from a Federal transmission line or is transferred over the facilities of a private utility or other owner.

9–16. HYDRO-THERMAL PROGRAM

Whereas, the electric utilities of the Pacific Northwest have reached a hydrothermal accord on the proper timing of construction of thermal generating plants in the Pacific Northwest and the addition of hydro-peaking capacity to enable all the electric utilities to meet the continued demand for electric energy; and

Whereas, implementation of this hydrothermal program requires the participation of the Federal Government, through the Corps of Engineers and the Bureau of Reclamation, to provide peak generating capacity at existing federal project with a minimum investment for maximum benefits, and the participation of the Bonneville Power Administration to maximize the use of the federal transmission grid. The rural electric cooperatives will participate in obtaining financing and the development of the thermal generating plants, and

Whereas, the hydro-thermal accord emphasizes the location of thermal plants near load centers, properly sized to minimize the number of plants, thereby preserving lands and right-of-way which would be required for transmission lines, and the failure to continue the hydro-thermal accord will result in smaller generating projects, the piecemeal development of smaller transmission systems, and higher cost for electric energy, and

Whereas, the comprehensive plan outlined in the hydro-thermal accord will insure that electric consumers in the Northwest will have sufficient powers for industry, for irrigation and for domestic use,

Now, therefore, be it resolved, that the President of the United States, the Bureau of the Budget, and the Congress continue to im-

plement the hydro-thermal program with net billing procedures as presented by the Pacific Northwest utilities.

9–17. TRANSMISSION LINES AND COAL RESOURCES

We favor construction of transmission and substation facilities to integrate Federal and public power projects in the Missouri River Basin and the Pacific Northwest in order to achieve maximum benefits of low cost electric energy. Specifically, we urge construction of Federal transmission lines between these two areas to permit development of the vast low-cost coal resources available in Montana to meet future customer load requirements in both areas.

We emphasize the lack of reliability and capacity in the Montana Power Company present 115 KV line Rainbow to Cut Bank, and urge the immediate consideration of the 161 KV Rainbow to Browning line to provide a loop feed and the capacity and reliability presently denied this area.

9–18. MIDDLE SNAKE

Whereas, the hydroelectric power which would be produced at multiple purpose dams on the Middle Reach of the Snake River is vitally needed in the Pacific Northwest and represents the cleanest, most efficient, new energy resource available to the region, and

Whereas, the Federal Power Commission Examiner has recommended that a hydroelectric license be issued to the Washington Public Power Supply System and Pacific Northwest Power Company to jointly build and operate a Middle Snake project;

Now, therefore, be it resolved, that we urge the Federal Power Commission to issue a license to the joint applicants for construction of this vitally needed multipurpose project.

9–19. BUREAU OF RECLAMATION PAYOUT SCHEDULES

Whereas, Federal legislation has established a criteria of 50-year payout for multiple purpose water resource projects and NRECA has supported and promoted such projects;

Now, therefore be it resolved, that we urge that NRECA and its members request the U.S.B.R. to revise the payout schedules to conform with Federal legislation, resulting in rate stability.

9–20. LINE RELOCATION ON PUBLIC LANDS

Whereas, many State and Federal highways are either being rebuilt or new ones constructed, and

Whereas, many of these highways cross public lands and electric utilities have distribution and transmission lines adjacent to them, and

Whereas, electric line rights-of-way across public lands are revokable upon demand for any public use, such as for highway construction or improvement, with the utility receiving no compensation for vacating its rights-of-way, and

Whereas, electric utility use is public use,

Now, therefore, be it resolved, that we respectfully urge that Congress and the various State Legislatures pass laws that will require the agency funding State or Federal highway construction on improvement reimburse electric utilities their actual costs for any electric line relocation required.

9–21. UTILITY CORRIDORS

Whereas, this country is witnessing ever increasing demands that more land be made available for use by the general public, and

Whereas, the amount of land that can be made available for public use is rapidly diminishing, and

Whereas, all utilities, whether they be electric, telephone, water, sewer, public roadways, etc., are each year requiring more and wider strips of lands for their rights-of-way.

Now, therefore, be it resolved, that utility corridors be established along all State and Federal highways constructed in the future and the accommodation of all utilities become a part of the planning of new highways.

9–22. PREFERENCE POWER IN NORTHERN CALIFORNIA

Whereas, the City of Santa Clara, California, is a preference customer of the Bureau of Reclamation, Department of the Interior, and

Whereas, the Bureau has withdrawn a major portion of the city's power supply forcing the city to purchase a substitute quantity from Pacific Gas and Electric Company at exorbitant rates, and

Whereas, this action is most unfair and penalizes the citizens of Santa Clara to the benefit of the power company,

Now, therefore, we urgently request that Congress and the Department of Interior institute a complete study on the matter of supplying preference power in Northern California to insure that private power companies are not receiving preference power to which they are not entitled.

9–23. AREA LOAN FUNDS

Whereas, the practice of approving REA loans to cover the needs of systems for a period of only one year instead of two years is uneconomical and requires considerable extra work,

Now, therefore, be it resolved that we urge full funding of the program so REA can return to the policy of granting two-year loans at the earliest date possible.

9–24. MULTIPLE PURPOSE POWER PROJECTS

Whereas, the authorization and construction of multiple-purpose projects benefits the economy of the nation, and many of these projects are in this region;

Now, therefore, be it resolved, that we urge the Congress to appropriate funds to complete planning and begin construction of the following projects at the earliest possible dates:

Bradley Lake, Alaska;
Auburn-Folsom, California;
Bonneville, Oregon-Washington (second powerhouse);
Ice Harbor, Washington (new units);
Chief Joseph, Washington (new units);
Lower Teton, Idaho;
Asotin, Washington-Idaho; and
Dixie Project, Southern Utah.

Be it further resolved, that we urge the Congress to authorize Federal construction of the following multiple-purpose projects:

Burns Creek, (Crandall), Idaho;
Kootenai Falls, Montana;
Fort Benton-High Cow Creek, Montana;
Lower Flathead, Montana;
Lenore, Idaho; and
Ben Franklin, Washington.

9–25. IN MEMORIAM

Whereas, we feel deeply the loss of several of Region IX's finest rural electric cooperative leaders during the past year,

Now, therefore, be it resolved, that we pause a moment in silence and pay our respects to those leaders who have served our program so long and so well.

9–26. APPRECIATION

Whereas, the success of the rural electrification program depends to such a large extent upon the drive, work and leadership of many people and groups, all of whom deserve recognition and a warm thank you;

Now, therefore, be it resolved, that the delegates of this Region do hereby express their deep appreciataion to all those who have been, and are, contributing to the success of the program. Particularly, this resolution gives special recognition to:

1. The NRECA Board of Directors and the staff for providing the high level of leadership and wide variety of valuable services to the NRECA membership.

2. Robert D. Partridge, General Manager of NRECA, for his dynamic leadership and to his staff for their services and devotion to our program.

3. David A. Hamil, Administrator of REA, and his staff for their great devotion to rural electrification.

4. The REA staff members both in the field and at headquarters for their loyal, devoted and efficient work on behalf of the program.

5. Friends of rural electrification in legislative bodies and executive branches of the Federal Government, as well as in the States, for their assistance on issues crucial to our program.

6. Henry Curtis of Northwest Public Power Association for his generous help to the Resolutions Committee.

7. The many individuals, suppliers, the Ridpath Hotel, the Washington Statewide Association and its manager Bob Smith, his staff and member electric systems, and other organizations for contributing to the success of this regional meeting.

9–27 GENERATORS AT GRAND COULEE

Whereas, the power load in the Pacific Northwest will be increasingly supplied by thermal generation which must be operated at high load factor to obtain maximum efficiency and such base-load operation will require large amounts of hydroelectric generation to meet the peak loads; and

Whereas, the Congress has authorized and the Bureau of Reclamation is now constructing a third powerplant at Grand Coulee Dam consisting of six 600-Mw hydroelectric generating units; and

Whereas, the Grand Coulee Reservoir provides a regulated supply of water sufficient for the peaking operation of additional generating units; and

Whereas, the Bureau in its design has made provision for increasing the size of the Third Powerplant by six additional 600-Mw generating units when authorized; and

Whereas, the Third Powerplant provides one of the most economical sources available for such large amounts of peaking power generation; and

Whereas, this Third Powerplant peaking generation can be obtained without polluting the environment or depleting non-replaceable fuel resources; and

Whereas, it is recognized that the Bureau of Reclamation will require time to prepare a report requesting authorization of these additional units for submittal to the Congress; and that the Congress will then require time for deliberation on the authorization of these additional units; and that the Bureau of Reclamation will then require time to prepare designs, procure equipment, and construct and install these additional units;

Now, therefore, be it resolved that the members fo Region IX both individually and jointly, press for and lend support to the authorization and construction of an additional six generating units in the Grand Coulee Third Powerplant in as timely and orderly manner as possible.

9–28. NORTH SLOPE TRANS-ALASKA PIPELINE

Whereas, we are facing an energy crisis in the United States and particularly on the west coast and the Pacific Northwest, and

Whereas, there exists large oil and gas reserves on the north slope of the State of Alaska, and

Whereas, the best available information indicates that the proposed pipeline is the safest and most practical method of transport to make these resources available to the people of the United States, and

Whereas, we believe that by careful planning, construction and management, energy resources can be utilized to meet human needs with minimal environmental damage;

Now, therefore, be it resolved that Region IX endorses and urges the Secretary of Interior to issue the permit for the immediate construction of the North Slope Trans-Alaska pipeline from the Arctic to Valdez, Alaska;

Be it further resolved that copies of this resolution be delivered to the President of the United States, the Secretary of the Interior and to the Senators and Representatives of Region IX states.

9–29. 18-YEAR-OLD VOTER

Whereas, we believe that the education of young people (both urban and rural) in the principles of cooperation and in the encouragement of their involvement in citizenship processes is one of the top priorities of the rural electric program, both locally and nationally;

Be it resolved that Region IX endorse the resolution of the NRECA Board of Directors, calling for an extensive national voter education and registration program among the new, young voters;

Be it further resolved that rural electric women be encouraged by local boards and managers to help in this very vital field of endeavor.

9–30. AMERICANA CRAFT FAIR

Whereas, the first rural electric Americana Craft Fair held in conjunction with the NRECA Annual Meeting in 1971 was an unqualified success and a splendid monument to cooperation, and

Whereas, we believe that this project is a creative implementation of Continuing Resolution, "Women's Participation", since proceeds were given to the Rural Electric Building of the Agricultural Hall of Fame and to ACRE;

Now, therefore, be it resolved that Region IX women participate in the Craft Fair at Las Vegas in 1972; and that proceeds from the fair be divided equally between ACRE and the Agricultural Hall of Fame;

Be it further resolved that each state in Region IX cooperate fully in planning a regional booth, thereby saving in efforts and expenses on the part of each of the eight states.

WEST VIRGINIA 4–H CLUBS HONORED FOR ENVIRONMENTAL IMPROVEMENT ACTIVITIES

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, November 23, 1971

Mr. RANDOLPH. Mr. President, there is no more potent weapon for use in the improvement of our country than the youth of America. The dedication, energy, and idealism of our boys and girls are regularly focused on the needs of America at all levels. The results of their involvement are widespread.

I am gratified that a group of young West Virginians was selected for national recognition of their work in behalf of a better environment. The Hustlers and Crackerjacks 4–H Clubs, of White Sulphur Springs, were chosen to receive the national youth award of Keep America Beautiful at its convention in Washington on November 11 and 12.

The members of the clubs were honored for their active program, which is part of the total community effort to qualify White Sulphur Springs as an All-American City by 1976. They used to good advantage, a week visiting Washington, the highlight of which was presentation of the award.

Adults who accompanied the club members were Mrs. Fred Halterman, Mr. and Mrs. Marshall Bostis, Mrs. Treva Weikel, Glen Simmons, and Lantie Cole.

The club programs are carried out under the supervision of Donette Zickafoose, Greenbrier County extension agent for 4–H work.

Participants from the clubs were Debbie Humphrey, Patty Bostic, Robin Bostic, Chuck Bostic, Eddie Cook, Joyce Kaptis, Sharon Houdyshell, Linda Houdyshell, Danny Hall, Pam Weikel, Dean Weikel, Beverly Coleman, Addia Tate, Berry Weese, Cindy Collins, Joan Wilson, Christie O'Neil, Donna Ford, Elaine Ayers, Debbie Ford, Shirley Ayers, Kathy Ford, Mike Honaker, Charles Vallandingham, Danny Honaker, David Vallandingham, Donna Honaker, Rhonda Stidom, Kathleen Wilson, Patricia Baud, Darrell Hinkle, Delbert Hinkle, Philip Watson, and Billy Erwin.

Mr. President, the award from Keep America Beautiful was accepted by Kathleen Wilson for the Crackerjacks and Hustlers 4–H Clubs. She described in detail the activities that earned the award, and I ask unanimous consent that her acceptance speech be printed in the RECORD.

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

KEEP AMERICA BEAUTIFUL ACCEPTANCE SPEECH

(By Kathleen Wilson)

Good afternoon.

I am Kathleen Wilson, and I am a representative of the White Sulphur Springs Crackerjacks and Hustlers 4-H Clubs. The clubs are urban groups in Greenbrier County, southeastern West Virginia. We have been involved in state youth conservation programs for several years. In 1970 we expanded our anti-litter and beautification activities. We, the young people of these clubs, committed ourselves to an extended anti-litter and anti-pollution program in connection with the town-wide "spirit of 76" 5-year improvement project in preparation for the 1976 bi-centennial of the United States and of White Sulphur Springs.

The following are various projects our club undertook:

Gleaned litter from neglected and rural areas of our community.

Shovelled snow from sidewalks and raked leaves from lawns of the senior citizens.

Cleared litter and raked leaves from the high school and elementary school lawns.

Wrote, directed, and performed a skit, entitled "Litterbugs Miss All the Fun" for the children of our community.

Sponsored a "Beautification Week" of anti-litter activities.

Sponsored and participated in an Anti-Litter Day with groups competing for prizes donated by the Chamber of Commerce for the group collecting the most trash. And one conscientious group of 4th graders even accused another group of stealing their trash, but the 4th graders still won first prize.

Presented programs on litter and pollution to the Girl Scouts, the Women's Izaak-Walton League, and a community public meeting. On the day that we presented the skit for the Women's Izaak-Walton League, we had planted 5,000 pine tree seedlings donated by the Forestry Service in the small community of Auto. To make things complicated, on the way home the truck which was transporting us had three flat tires, and we ended up having only half-an-hour to take showers, put on clean clothes, eat, and be at the meeting ready to perform the skit. Anyone could have guessed what we spent the day doing since we still smelled like pine.

Attempted to convince town officials to leave the city dump open for public use and to have the police issue strong warnings about the enforcement of litter laws.

Displayed "live litterbug" (a mirror in a box) in a local store. This was a small box with the words "see the live litterbug" printed on it. When you looked into the box, you saw your reflection in the mirror. People would look inside the box, get embarrassed, and refuse to tell the person behind him what it was; they would let the other person see for themselves.

Sponsored and participated in a Litter Parade to dramatize the need for litter prevention.

The Green Mitt Garden Club, Greenbrier Business and Professional Women's Club, the Women's Izaak Walton League, White Sulphur Springs Women's Club, all the junior high school bands in the county, Cub Scouts, Girl Scouts, and Boy Scouts, and many church organizations took part in the conservation parade.

Our club presented a float in the parade made of tin cans in the shape of a horse, entitled "Nightmare of the Highway." After the parade someone even stole our "Nightmare."

Participated in the community's annual Christmas Parade with a live float stressing the conservation theme with the slogan, "Time, Our Greatest Gift to Our Community."

Cleaned litter from the town parking lot and Memorial Park, a playground area used by the community's children. We provided a trash can in the playground for the children's litter.

Distributed litterbags, donated by the Forestry Service, to motorists driving through the community.

Prepared and presented programs on litter-prevention and pollution control at the Greenbrier County 4–H Round-Up. Our skits won first and second prizes. One of the skits was written by a young club member and presented by the younger members of the club.

The conservation chairman of the club appeared on radio station WRON and talked about the club's anti-litter beautification program and urged citizens to get involved in similar projects.

Researched litter and other pollution problems and prepared articles that were published in community newspapers.

Wrote to leading detergent companies, asking them what they were doing toward anti-pollution of water. Then we tried the various products of the companies—some low in phosphates, some with no phosphates. We found that the no-phosphate detergent did not clean as well as the products we had been using in our homes. But we did find one low-phosphate detergent, Wisk, that performed equally well. We wrote to the Lever Company for samples and informational brochures. These we distributed over White Sulphur Springs, asking the people to try Wisk and if they found it to be comparable to their present detergent, to buy and use Wisk. We are still in the process of finding out the results of these efforts.

Prepared a proclamation on Conservation Education Month urging everyone to be concerned with conservation and secured the Mayor's signature and endorsement for the project.

Toured pollution abatement facilities of WESTVACO (Bleached Board Division) plant and heard a lecture on pollution control.

Participated in the West Virginia Youth Conservation Program sponsored by the West Virginia Department of Natural Resources and the Sears Roebuck Foundation. The club's conservation projects were honored with awards presented at the West Virginia Youth Conservation program meeting. In 1969, 1st place; 1970, Governor's Cup; 1971, 4th place.

The Greenbrier Valley Conservation District sponsored an Art Poster Contest and

provided cash awards for the winners. Several of our members entered the contest.

The White Sulphur Springs Star and the West Virginia Daily News provided full coverage of our anti-litter efforts.

The goal of the White Sulphur Springs "Spirit of 76" project is to make the town as "All-American City" by 1976, and the Crackerjacks and Hustlers 4-H Clubs have committed themselves to improving the city "ecology-wise" as much as possible before the end of the program. These clubs have taken the initiative by launching and carrying through anti-litter, anti-pollution, and conservation projects. As a result, other organizations and a number of community officials have been encouraged to join in and participate in a town-wide environmental improvement program. And we hope that if you are ever in our part of the state of West Virginia that you will appreciate the beauty we have created.

A HOLIDAY MESSAGE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mrs. ABZUG. Mr. Speaker, I received a most thoughtful and moving holiday message the other day. I would like to share it with you and all of my colleagues:

This year my brother and I will observe Christmas, as we did a year ago, in prison.

Our mother, 85 years old, will observe the holiday at home, waiting, pondering, hoping. She waits not for our release alone, but for the release of all prisoners, here and everywhere. She awaits in her prayer and longing, the release of humanity from the iron conscienceless prison of war . . .

She supported us during our "crime" and our trial, she visited us in prison. When questioned on T.V. about our breaking the law, she said simply, "It was not God's law they violated." Her words had gone, we feel, to the heart of the matter, not only for us, but for all Americans, and especially for American women . . .

Certainly the trouble is not that we do not want peace. We have seen enough war, we are sick unto death of death. The war has come home like a stalking corpse, trailing its blood, its tears, its losses, its despairs—seeking like an American ghost, the soul of America.

We want peace. But the rub is that we do not want to pay the price of peace. We still dream of a peace that has no cost attached. We want peace, but we live content with poverty and injustice in our midst, with the murder of prisoners and students, the despair of the poor, to whom justice is endlessly denied. We long for peace, but we also wish to keep undisturbed an arrangement of privilege and power that ensures the economic misery of two-thirds of the world's people.

Obviously there will be no genuine peace, while such a violent scheme of things continues. America will extricate itself from the bloody landscape, the ruined villages and mutilated dead of Vietnam. But nothing will be settled there, nothing mitigated at home. Nothing changed, that is, until a change of heart leads to a change of the social structure of every area of our national life.

In this change, women will of necessity play a great part, and thus liberate themselves.

But to do this, they must see clearly the nature of their enslavement. The modern state is perpetually mobilized for war; a mobilization of conscience, appetite, cupidity and fear. Such a dragnet necessarily takes captive the 51% of Americans who are women. Women are part of the war making state . . . Women are irreplaceable cogs in the cyclic machinery of cupidity and consumerism: they produce the children who fight the hot wars and accept the cold wars, both as inevitable conditions of life. Women, too, are champions of private property, defenders of lily white schools, resisters against neighborhood integration, advocates of corrupt "nine points of the law" politics of those in possession.

Liberation from such slavery will not be an easy achievement. For some women, it will mean casting off a role of predestined poverty and exploitation. Women will refuse to be victims. For others, liberation will mean refusal to play the power game, realizing how cruelly dispassionate the will to power is, they will realize that the slavemasters inevitably becomes the victim of violence, greed and hate.

The season we celebrate speaks of the liberation of peoples. In Jewish and Christian tradition, freedom is both a gift of God and an achievement of people. It costs: blood, tears, imagination, energy—above all and including all: love, the instrument and end of all human striving.

Greetings to you and yours, from prison. Peace and liberation.

DANIEL BERRIGAN,
PHILIP BERRIGAN.

REHABILITATION WORKING AT RFK YOUTH CENTER

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. MOORHEAD. Mr. Speaker, how many Atticas do we need before we will admit that our prisons are not accomplishing the task of prisoner rehabilitation?

Some will say that the job of prisons is merely to incarcerate and nothing more. I do not agree.

With the high rate of recidivism, it is obvious that much of the crime in our Nation is caused by those already familiar with institution walls, be they city, State, or Federal.

For this reason, it is always heartening to see a prison rehabilitation program working.

In this instance I am referring to the record of the Robert F. Kennedy Youth Center, in Morgantown, W. Va., where some of the most innovative rehabilitation programs are functioning, and functioning well.

A recent article in the Pittsburgh Post-Gazette tells just what is taking place at the RFK Youth Center. I think all of my colleagues will be interested in this institution and its techniques:

STONE WALLS DO NOT THIS PRISON MAKE—RFK CENTER GIVES YOUNG OFFENDERS CHANCE

MORGANTOWN, W. VA.—One night this week, three young men climbed out a dormitory window, raced across a dimly lit campus and disappeared into the darkness.

Another evening at the same campus, a young man looked up from a pool game during a dormitory dance. "Man, this place is called prison," he said, "but it's the first decent chance I've had to do anything in 17 years."

He had gotten a message that the three who ran away had missed.

Most inmates at the Robert F. Kennedy Youth Center do see the light—a light that the federal government is trying to find for a troubled correctional system that has led to Atticas and San Quentins.

"What we're trying to do," says a youth center official, "is to say to troubled young men and women that we want to help, how about giving us a chance."

The chance—for 235 young offenders here—is a multi-million-dollar rehabilitation experiment which has produced convincing results in less than three years.

Without bars or high wire fences, the Kennedy Youth Center is easy to leave. And many have escaped—about 100 since the facility opened in December, 1968.

But records also show that more than 300 of the 400 who have been released from the center are still free—a success rate of about 75 per cent.

"That's not an ideal figure," says Roy Gerrard, former director of the center who is now deputy director of the U.S. Bureau of Prisons. "But it's a lot better than any other place I know of."

Inmates who escape from the Kennedy center don't get a second chance there. Records show that most of the 100 escapees were apprehended and sent elsewhere, mostly to maximum security institutions.

There are no cells at the Kennedy center. Instead, there are individual rooms in seven dormitories that dot a 250-acre campus just outside Morgantown, home of West Virginia University. Scattered on the grounds are athletic fields, a gymnasium, classroom buildings and an indoor swimming pool, part of an $11 million physical plant.

For the center's 210 males and 25 females, who range in age from 16–23, life is far different than at practically any other penal institution.

"The objective is to normalize the environment, to keep an offender in the same community environment in which he must eventually live," says Jay Flamm, center director.

All inmates are involved in some kind of educational or work program.

An important ingredient in the formula is money. Flamm says the government spends about $34 per day on each inmate, easily the highest per capita expenditure of any federal penal facility. This cost includes the $11 million price tag on the physical plant.

The average expenditure for all federal prisons is about $10.50 a day for inmate, according to federal prison officials in Washington.

At Kennedy Center, inmates receive at least six hours of instruction per day in areas lavishly equipped to teach electronics, woodworking, power technology, graphics, aeromechanics, basic and remedial education courses and data processing.

Classes are taught by 22 instructors hired as guidance counselors and then trained to teach vocationally.

The counselors attempt to work in small discussion groups outside of classes. Gerrard says they have been quite successful in avoiding the problems of race and homosexuality that plague most penal institutions. The center population is about 50 per cent black.

Most of the inmates here are persons who have stepped outside the federal law for the first time. They are referred here by the courts and by other penal institutions when officials spot a potential for rehabilitation.

"Society hasn't come up with many answers for corrections," says Gerrard. "A lot of the things we're doing at Kennedy might point the way to a better future."

A typical Friday night at the center will find a dance in one of the dormitories, where coeds and social workers from West Virginia University come for the evening.

"The mission of the center is a pioneering one," says Flamm.

"What we're finding is that you can do things differently and make a go of it."

"At the center the students know we care and will try to help them," Gerrard says. "That's what it's all about anyway."

"The answers we're finding can be applied in other places if the public is willing to pay the price."

Outside a dance one recent Friday night, an inmate who was to be released in two days said his life may have been turned around in the past nine months.

"If you could see where some of us come from," he said, "you'd know why more don't run away. This place is better than most of our homes. And some of us have found out here that this might be our last honest chance to turn our life around."

NEWSPAPERS TELL CITIZENS HOW TO WORK FOR A BETTER ENVIRONMENT

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, November 23, 1971

Mr. RANDOLPH. Mr. President, Americans are concerned with the threat that pollution poses to life. We know that unless we discontinue our wasteful, damaging ways, much of the world will not be a fit environment in which to live.

Desire to improve the situation, however, is not always enough. We need to know how our concern can be transformed into action.

I am pleased by the attention being given to this matter by newspapers in West Virginia and throughout the Nation. Many of them are taking the lead to inform readers just what they can do for a cleaner, better environment.

The Inter-Mountain, published in my hometown of Elkins, recently published a concise checklist of ways in which individual citizens can help improve the environment in their communities. It contains valuable advice for all Americans.

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

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

BATTLE WITH POLLUTION BEGINS AT HOME

Homeowners can familiarize themselves with pollution-stopping actions. Here are some suggestions:

1. Acquaint yourself with anti-pollution ordinances and make sure you abide by them. When you see a flagrant violation, report it to the proper authorities.

2. Don't burn leaves or trash. Better to start a compost heap and return the nutrients to the soil. Remove weeds in the lawn by hand rather than applying a herbicide.

3. Use insecticides sparingly, and only when absolutely necessary, to kill flies, mosquitos and midges. If you must use them, follow directions carefully.

4. Plant trees and shrubs. They absorb carbon dioxide, produce oxygen, help purify the air and prevent soil erosion.

5. Use a hand mower if your lawn is small. Keep gasoline-powered tools in top operating condition so noise and exhaust fumes will be minimized.

6. Be careful with matches around wooded or grassy areas. Forest and grass fires cause air and water pollution.

7. When on a picnic, be sure to properly dispose of all paper dishes, cups and other refuse. Pick up any discards left by others. Littering of picnic grounds spoils them for everyone.

8. When building a house, be sure it is well insulated and tree-shaded. This will minimize fuel consumption in winter and air-conditioning loads in summer.

9. In winter, turn your thermostat down a few degrees. Have your home heating system checked annually, or any time it appears to be operating inefficiently.

10. If you live in the city, don't litter the sidewalks. Use litter baskets—and curb your dog!

11. Observe parking regulations so that the sanitation department can collect garbage and clean the street without obstruction.

12. Encourage and support your sanitation department when it seeks more modern and efficient collection and disposal equipment.

13. If you live in a building with an incinerator, follow instruction carefully so you don't litter incinerator rooms. If you put your garbage out on the street for collection, make sure you use a spill-proof container.

14. Start a campaign to save newspapers, cans and bottles for collection and recycling where facilities are available.

15. Never flush away what you can put in your garbage pail. Organic materials like cooking fat clog plumbing and septic tanks, causing sewage overflow.

16. Measure detergents carefully, using only enough to get your clothes clean. Try to run your dishwasher only once a day or less, depending upon the size of your family.

17. Don't use heavy electrical appliances, such as washers and driers, during those hours, usually 5 to 7 p.m., when the electrical load is at its peak. The strain at the local generating station may contribute to air pollution. Install low wattage bulbs in lamps not used for reading. Turn out lights not being used to conserve power.

18. Don't drive a car when you don't have to. Walk, bicycle, or use mass tranportation, if possible. When you do drive, avoid quick starts and stops. Don't leave the engine running while parked. Car exhaust is a pollutant.

19. Make sure your car is equipped with required antipollution devices and have them checked regularly. If you buy a new car, read the instructions in your owner's manual regarding maintenance and up-keep of these devices. Match horsepower ratings to your needs. Don't buy a high horsepower car if you don't need it.

20. Burn a fuel rated most efficient for your engine, in terms of the reduction of emissions.

21. Get an engine tune-up every 10,000 miles or at least once a year. Be sure to change oil and air filters regularly.

22. Carry a litterbag in your car—and in you boat too. Bring the bag back with you and dispose of it properly at the end of your trip.

23. Help reduce noise pollution. Don't use your horn unless safety dictates. Keep your muffler and tail pipe repaired.

THE LATE HONORABLE J. HOWARD EDMONDSON

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1971

Mr. ROONEY of New York. Mr. Speaker, the untimely passing of the Honorable J. Howard Edmondson, former Governor and Senator from the State of Oklahoma, was indeed a shock. Howard Edmondson was in the prime of life yet he had already achieved more than most men could ever aspire to in their entire careers. In 1953, he served as a chief prosecutor in the county attorney's office in Tulsa and the following year was elected county attorney and reelected to that post 2 years later. In 1958, he was elected Governor of the State of Oklahoma and in the capacity introduced many innovative reforms. In 1963, he came to the U.S. Senate to fill the unexpired term of the late Senator Robert S. Kerr. At the time of his unexpected death he was managing the Senate campaign of our distinguished colleague ED EDMONDSON, his brother. To his wife and children and to his brother I extend the Rooneys' deepest sympathy on their terrible loss.

KENTUCKIAN REELECTED PRESIDENT OF KEEP AMERICA BEAUTIFUL—SENATOR RANDOLPH RECEIVES AWARD

HON. JOHN SHERMAN COOPER

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Tuesday, November 23, 1971

Mr. COOPER. Mr. President, representatives of citizen organizations, dedicated to a clean and attractive America gathered in Washington on November 11 and 12 for the 18th annual meeting to Keep America Beautiful.

This organization and its State and local affiliates work at the grassroots level in the crusade for a better environment. Such groups are essential to any effort to improve our world.

Mr. President, for the past year, Keep America Beautiful has operated under the active leadership of its president, James C. Bowling, a native of Paducah, Ky. I am proud that a former citizen of my State is so deeply involved in this important work. During the 2-day meeting, members of Keep America Beautiful demonstrated their appreciation for Mr. Bowlings work by reelecting him to a second term as president. I know that their confidence is well-placed.

This annual meeting, attended by more than 600 persons, was addressed by my friend and colleague, Senator JENNINGS RANDOLPH, of West Virginia, the chairman of the Senate Committee on Public Works.

Keep America Beautiful also presented a special award to Senator RANDOLPH with the following citation:

Presented to the Honorable Jennings Randolph, senior senator from West Virginia for distinguished leadership and personal dedication to improving the environment for the citizens of his state and country.

Mr. President, I am pleased to add my commendation to Mr. Bowling and Senator RANDOLPH for their outstanding leadership for a better America. I have had the opportunity to know, as a fellow member of the Committee on Public Works, of the long record of initiatives and leadership to protect the environment.

CITIES SERVICE OIL SETS THE PACE IN WILDLIFE AND MARINE LIFE CONSERVATION

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. COLLINS of Texas. Mr. Speaker, America is proud of the innovations in wildlife and marine life conservation made by Cities Service Oil. Cities Service has received a first place award in petroleum engineer's environmental control development program for its fee land operations which have developed more than 30,000 acres of lands and waters for recreational benefits and improved air environment.

The awards program will be a continuing part of Petroleum Engineer Publishing Co.'s editorial program in Petroleum Engineer, Pipeline & Gas Journal and Hydrocarbon News, and is designed to disseminate to the public and throughout the industry the positive story of the petroleum industry's developments in pollution prevention. We salute Cities Service for their achievement in environmental control which was recognized in the award statement:

CITIES SERVICE OIL SETS THE PACE IN WILDLIFE AND MARINE LIFE CONSERVATION

Through Cities Service Oil Co.'s land management program, the company is following its corporate philosophy of being a good neighbor wherever it operates and a good steward and conservator of its landholdings and natural resources.

Cities Service cites its fee land operations and development in Ouachita, Moorehouse and Union parishes in North Louisiana.

More than 30,000 acres of fee lands and water have been developed to improve value of the land, provide recreational benefits, and improve the air environment—all within the business concept.

Some 1400 acres covered by water and known as Black Bayou Lake is a satisfying and productive fishing spot. As a good neighbor, Cities Service keeps the latch string to the lake on the outside, permitting anyone to fish and hunt duck without charge.

Following guidelines of the Louisiana Wildlife and Fisheries Commission, a 240-acre pond for the raising of crawfish was developed on a small area near a bayou which was unsuitable for conventional farming. Thus, the oil company is producing high protein fish food in a highly engineered pond that surfaces over a gas field and tieing the two operations together as natural resource-related. In doing so, Cities Service is supplying an increasing demand from Louisianians for crawfish, the poor man's delight and the gourmet's delicacy.

More than 13,000 acres have been dedicated to the Louisiana Wildlife and Fisheries Commission's wildlife management area. While the company will continue to cut timber from this area, the land becomes part of a large reserve managed by the state commission and available to the public for hunting.

Cities Service has more than 22,000 acres in timber within the 3-parish area. First planting of pine was in 1955, first "thinning" in 1970. Typical of the company's pine planting program: in one year, pine seeds were broadcast from a helicopter on 1250 acres. In addition, 400,000 pine seedlings were planted on another tract.

Cities Service recognizes that trees are essential to a healthful environment, and, figured on the accepted formula, reports its timber holdings are creating enough oxygen to supply the annual needs of almost 400,000 people.

More than 2400 acres are dedicated to farming on a tenant basis. Pecan farming is another innovation on the fee lands. Some 400 acres already are planted in pecan trees and an additional 600 trees will be planted annually for the next few years.

In its land management program. Cities Service feels it is attaining stature as a good steward of its fee lands—developing the natural resources to their utmost, replenishing renewable natural resources, maintaining and improving the environment and extending land usage for recreational purposes.

SISTER CITIES PROGRAM

HON. J. CALEB BOGGS

OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Tuesday, November 23, 1971

Mr. BOGGS. Mr. President, I wish to pay tribute to an organization which is doing the shirt-sleeves work of creating international understanding and good will. I speak of the Town Affiliation Association of the United States.

President Eisenhower provided the inspiration for the Town Affiliation Association when he announced a broad people-to-people program in 1956. Since then, with the cooperation of the National League of Cities and the U.S. Information Agency, TAA has promoted "sister-city" programs between 370 American cities and towns and 445 cities and towns in 60 foreign countries.

Once the groundwork for a sister-city affiliation has been laid by a local affiliation committee, usually with the mayor as honorary chairman, the stage is set for a long and varied friendship between the cities. Since sister-cities are chosen on the basis of mutual interests, projects involving visitor exchanges, letter writing, school affiliations, and business and cultural exchanges develop naturally.

We in Delaware are particularly proud of the fact that TAA has flourished in recent years under the presidency of a dynamic and distinguished business leader from Dover, Del., Mr. Frederick W. Brittan. Mr. Brittan has accomplished what everyone said should be done but no one knew quite how to do. He has brought people to people across thousands of miles in a way that is personally meaningful to them.

Thanks to Mr. Brittan's tireless efforts, Delaware has an active sister-city program. It has enriched the lives of Delawareans with numerous cultural, social, educational, and commercial exchanges. Wilmington has for many years enjoyed a sister-city affiliation with Kalmar, Sweden. Likewise, Newark, Del., is affiliated with La Garde Freinet, France, and Dover is affiliated with two foreign cities—Lamia, Greece, and Tunja, Colombia.

Mr. President, I merely wish to draw the attention of Senators to this outstanding program which is deserving of our support and our appreciation.

Recently, Dr. George G. Wynne, Information Officer at the U.S. Mission to International Organizations in Geneva, who has long been associated with the sister-city program, wrote an excellent report on the Town Affiliation Association, highlighting the association's history, its achievements, and its current worldwide activities. It is a fine article. I ask unanimous consent that it be printed in the RECORD.

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

TOWN AFFILIATION: THE U.S. EXPERIENCE

(By Dr. George G. Wynne)

The age of mass communications has increased the possibilities of direct contact between peoples across national frontiers. A gradual rise in living standards in many parts of the world, coupled with the progressive easing of travel and currency restrictions in the twenty-two years that have passed since World War II have brought international travel within the reach of ever greater numbers of people. With particular reference to the United States, this means that during 1969 more foreign nationals (excluding Mexico, 1 million, and Canada, 9 million)—an estimated 2 million—visited the U.S. than at any time in history.

To the extent that travel and personal contact between people of different nationalities strike at the roots of fear and hostility in the relations of governments, they help bring about that wide base of international understanding to which governments, fashioned of people and limited in varying degrees by their support, need be responsive. The proposition is basic and simple: what we don't know, we begin to fear and what we fear we begin to hate. As soon as the unknown quantity resolves itself into people with the same cravings and aspirations as our own, we begin to understand each other and to tolerate what may be differences in customs and behavior. Mutual suspicions are replaced by that other widespread trait of our gregarious human family—a natural curiosity about the other fellow and what makes him tick. From this realization of common humanity flows mutual friendship, respect and compassion

With the advent of community affiliations (Sister Cities) and other organized personal contacts on a local level in the interest of international understanding, but outside the direction and control of central government, a powerful new force has entered the international arena: that of people dealing with people, directly or through the private and professional groups that claim their interest. In the future this concept may not only prove an important adjunct to conventional moves by enlightened governments in the promotion of world peace and understanding, it might actually stake out the limits of popular support for government actions detrimental to international unity.

What then is the American experience and the challenge for the future held by people to people diplomacy? This paper will confine itself to the town affiliation or sister city movement which currently links more than 350 American communities ranging in size from New York City to Oakland, Nebraska (pop. 1,400) in mutually stimulating programs of information and cultural exchange that help widen the horizon of participating communities.

THE TOWN AFFILIATION ASSOCIATION

In September, 1956, former President Eisenhower announced the People-to-People program, holding the basic concept that the citizens of this country, representing the great strength of the United States, could and should make contributions to improve the image and understanding of our country abroad. This very sound concept was to involve people at all levels of our society in "personal diplomacy." Many ideas and committee endeavors were suggested and tried as elements of the program.

Of the original committees established in 1956, the principal purpose of the Civic Committee of People-to-People was to establish town affiliation relationships. Thirteen years have passed since the program was announced, and many of the other original committees no longer exist. However, the Town Affiliation (sister city) program has proved to be one of the most viable, far-reaching and effective in its impact.

In 1957, the U.S. Information Agency asked the National League of Cities, because of its broad-based municipal membership throughout the United States, to serve as a clearinghouse and in an administrative capacity to help expand the program. Today, more than 350 American cities have established affiliations with more than 450 cities in 60 other nations of the free world. These cities are actively engaged in meaningful international relations on behalf of the 1 out of every 4 Americans represented by the combined population of more than 45 million persons in these United States cities.

In the early years of the program, no more than a dozen active affiliations existed. As the number increased, the necessity developed for some type of clearinghouse through which interested cities could obtain pertinent informatiton as to affiliation procedures, leads to foreign cities available for affiliation, receive information regarding successsful and unsuccessful programs and how to do it materials. During that same period, the USIA had established the Office of Private Cooperation, serving in an advisoy and liaison capacity, to assist those cities wishing to obtain expert knowledge or desirable project ideas and to service embassy requests from abroad.

This combination proved to be most effective in the early years of the program; there were not too many cities then affiliated, and communication with them was relatively easy. However, as more cities heard about the program, more joined and requests doubled and tripled. The oroginal informal working relationship began to prove confusing, and efforts were initiated to give a more formal structure and policy to the entire national movement.

In 1965, the first efforts were made along these lines at a Western Regional Sister City Conference, held in Portland, Oregon, at which the delegates unanimously recommended the establishment of a national association. Following this action, the League of California Cities and the League of Oregon Cities adopted resolutions supporting the idea during their annual meetings. The Executive Committee of the National League of Cities took identical action at its meeting late in 1965. An interim Board of Directors was named, so that Article of Incorporation and By-Laws could be drafted and other procedures established to accomplish this organization. At the 10th Anniversary Conference of the Town Affiliation Program held in Washington in September, 1966, delegates unanimously supported this idea, and the incorporation was completed. Additional meetings were held to formalize the structure of the organization, a fund raising drive was launched, and the association finally became a reality on June 12, 1967, in the District of Columbia.

The National League of Cities and many State Leagues of Cities wholeheartedly support the Town Affiliation Association. However, town affiliations are basically citizen-oriented.

They should be citizen-directed and involve widespread citizen participation. It is the consensus of the leadership of the NLC that its role, and that of any organization of city officials, should be one of participation and support, rather than one of policy-making and administration. Therefore, at the will and direction of the cities currently involved, the Town Affiliation Association of the United States, Inc. was founded in 1967.

A RECORD OF ACHIEVEMENT

The joining of forces in the U.S. over the past three years of national and civic organizations for a nation-wide promotion of community affiliations has pushed the number of active information and cultural exchange programs in effect between American and foreign cities to a historic high at the time of this writing. These have been recognized as a promising new technique in intercultural relations at the local level designed to bring the talents and resources of private citizens to bear on the problem of eliminating sources of intolerance, prejudice and suspicion among nations.

Even though negotiations aimed at establishing specific affiliations normally take six months or more, involving as they sometimes do local legislative action in both communities, the organization of committees and action programs, international correspondence and the scaling of language barriers, new affiliations are now coming into being at the rate of one every six days.

Efforts are now under way to strengthen the content and impact of existing programs through an exchange of views, program ideas and case studies of successful projects in a monthly newsletter designed to serve as a vehicle for the exchange of information between participating American communities.

The significance of this combined effort in the initiation of international relations at the city level has been recognized in feature articles appearing in such nationally noted magazines as The Reader's Digest and Look Magazine. Leaders of American thought and action, including Presidents Eisenhower, Kennedy, Johnson, and Nixon, legislators, judges, scientists and educators, have hailed the achievements of the program in establishing enduring friendships between America and their neighbors on this shrinking planet. Introduced on a number of occasions on the floor of Congress and reported in the Congressional Record, these remarks have added their weight to the scores of positive evaluations by the nation's leaders on both sides.

As the type of activities undertaken by American Cities in their exchanges with foreign affiliates generally fall into the same categories, no attempt will be made to single out or evaluate the projects of specific cities. The scope of this paper does not permit such project summaries. The highlights presented below are grouped rather according to functional areas in which sister city programs have already advanced the cause of international friendship and cooperation while giving evidence to progressively increasing the scope and depth of their contribution.

RAPPROCHEMENT BETWEEN VITAL WORLD AREAS

Eighty Japanese communities with a combined population in excess of 30 million are now linked with an equal number of American cities in a massive rebirth of sympathy between the citizens of two nations locked in mortal struggle within the memory of the present generation. The movement has spread so rapidly in Japan that city governments have made it a point of municipal policy to be the first in their area to obtain an American affiliation. Unlike the programs of American communities which are financed almost entirely by private and voluntary contributions, Japanese municipalities often underwrite the affiliation activities out of city funds as a project in the public interest.

Besides an impressive exchange of delegates and visits considering the distances involved, the program here has been characterized by the trading of permanent and dramatic tokens of goodwill between communities. These have ranged from a full-size replica of San Diego's 20-ton Guardian of the Waters statue now facing eastward across the Pacific from a waterfront shrine in Yokohama, to cast bronze temple bells and entire pagodas shipped by Japanese communities to U.S. sister cities as a symbol of their lasting friendship and goodwill. In the course of these exchanges even a San Francisco cable car, an object of local lore, representative of a vanishing era, has found its way to enshrinement in the public park of Osaka—San Francisco's sister city. Thousands of young people in both countries are corresponding with each other, school systems are cooperating in exchanges of information and exhibits and many more local officials, opinion makers, students and businessmen on both sides of the Pacific are getting to know each other in that climate of goodwill, mutual trust and local loyalties established by the sister city program, than would otherwise have been possible.

The same holds true of affiliations with German speaking communities, some of which like that of Worthington, Minnesota and Crailsheim, Germany date back to the early postwar period and have been productive ever since to student and teacher exchanges. Several affiliations have even resulted in marriages. A case in point is provided by the Hagerstown, Maryland-Wesel, Germany affiliation where former Mayor Winslow Burhans' daughter married the son of a Wesel municipal judge.

Though this paper has confined itself to the American experience, we understand that the hundreds of Franco-German twinnings of cities have contributed dramatically because of their geographical closeness and the ease of travel to a physical rapprochement between the two countries.

The day may come when such exchanges will also contribute to the lessening of East-West tensions, but such a development presupposes a workable method to limit and hold to parity the role of government in community programs.

LEARNING FROM EACH OTHER

The existence of sister city links has resulted in thousands of privately financed student and teacher exchanges instrumental in building a lasting appreciation of the overseas neighbor's society and culture among today's opinion makers and tomorrow's leaders. In obtaining personal knowledge of each other's ways, problems and aspirations, exchange visitors have time and again gained a priceless awareness that the standards of their own society are relative rather than absolute and that the essential unity of the human family is of greater significance than its manifold divisions.

Exchanges of delegations and organized group visits of local citizens in the course of their vacations, or specifically for study purposes have also contributed to this objective. These private exchanges of persons, hurdling political and language barriers, would not have come about without the sister city program. This applies in like measure to the exchanges of information in the form of exhibits, correspondence, newspaper articles, films and tape recordings, besides the more obvious exchanges of book and magazine collections which are daily bringing American cities and their foreign affiliates closer together in an appreciation of each other's culture and viewpoints.

Ingenious methods have been adopted by the program committees of sister cities in mobilizing the financial and human resources of the community in support of their worthwhile endeavors. Fund-raising devices to finance scholarships, teacher exchanges, library presentations and other program work have included trade fairs (Riverside, Cal.), fashion shows (Denver, Colo.), dances (Forest Heights, Md.), the general solicitation of contributions by local industry and the registering of sister city programs as nonprofit corporations qualifying for tax-exempt membership dues and contributions (York, Penn.; Montclair, N.J.; San Diego, Cal., etc.).

The importance of foreign language study brought home to affiliated communities in

the course of their association has resulted in accelerated language teaching efforts at the local level with built-in incentives for proficiency in place of earlier indifference. Sister Cities have in some instances been successful in obtaining the services of exchange teachers invited to the United States under government grants and local school systems in affiliated cities are making a greater effort to participate in government sponsored teacher exchanges with particular reference to the city of their choice.

In what is reportedly to be one of the most massive U.S. efforts of its kind, the public schools of York, Pennsylvania affiliated with Arles in southern France—are providing regular instruction in French to thousands of primary and high school students. The program uses the services of exchange teachers provided by Arles and has been in force for a number of years. Other affiliated cities are likely to follow suit with the growing interest in foreign travel, language and culture now spreading throughout the country. Local radio stations and the National Association of Educational Broadcasters are cooperating in this effort by organizing instruction programs in major world languages. Adult education programs have followed suit by offering evening classes of instruction in the languages of affiliated cities. A recent example is Downey, California where some 70 leading citizens joined an intensive Spanish language course in preparation for a group visit to Guadalajara, Mexico, their new sister city to the south.

MUNICIPAL COOPERATION

Communities linked in town affiliation programs are exchanging technical information on municipal problems such as waste disposal, traffic control, fire fighting, zoning regulations and the like. They have even started to help each other by exchanging the services of experts on requests to deal with specialized local problems. A New York traffic engineer has gone to Tokyo and port officials in Seattle and Kobe have swapped places to study their problems from a new perspective. Taking a busman's holiday and sampling life abroad in the process, the Jakobstad, Finland fire chief fought fires with the Jamestown, New York fire department and vice versa.

There are other examples of this kind, but technical cooperation at the municipal level is just beginning and it provides a challenge for international action through such organizations as the United Nations, since the costs and specialized skills involved generally exceed the resources available to single communities. Participating cities and the U.N. technical cooperation program could well afford to take a closer look at how their skills and resources could best be combined to bring the know-how of advanced municipalities to bear on the problems of urban centers now emerging from centuries of social neglect.

Also contributing to the impact of sister city programs have been technical exchanges sponsored by private industry, such as skilled craftsmen from Arles working in the Home Furniture Company of York, Pennsylvania, or a builder from Wesel employed for a year by a Hagerstown, Maryland firm. Opportunities provided by the regular exchange programs of government and private organizations have sometimes been utilized by enterprising city affiliators in providing transportation for such specialists as newspaper and radio reporters. A newsman from Rennes, France, for instance, served on the staff of the Rochester, New York Daily and a Sendai, Japan reporter has worked with the Riverside, California press.

A FRIEND IN NEED . . .

Sister cities have rallied to aid each other when stricken by disaster or faced by critical needs and sudden emergencies. Wesel, Germany residents rallied to aid Hagerstown, Maryland, faced by severe unemployment in the winter of 1961. When severe earthquakes ravaged Chile one summer, the community of Sausalito, California, affiliated with Vina del Mar, raised several thousand dollars for relief operations. Iron lungs have been flown to Japan to combat a polio epidemic, and a twin-engined plane was presented to Goiania, Brazil by Orlando, Florida to service the educational needs of Indian tribes in scattered jungle locations.

Los Angeles sent crates of medical supplies to typhoon-damaged Nagoya, Japan. Places for medical interns from Graz, Austria, where medical facilities were overcrowded in the postwar years, have been provided annually by Monclair, New Jersey; a children's health clinic established in Brest, France by Denver, Colorado, and a ward financed in the Mercara, India community hospital by Darien, Connecticut, to mention but a few examples of Sister City assistance.

MAKING BETTER CITIZENS

In helping their country by making and keeping friends abroad, Americans engaged in the program are not only gaining a sympathetic awareness of the problems of the other fellow, from the frank discussions and exchanges of views that typify the best affiliations, they are learning to see themselves as others see them. The work of the town affiliation committee, focusing the efforts of local groups and of citizens in all walks of life into a positive community objective, moreover provides a constructive experience of working together with one's neighbor for a common goal representative of man's noblest aspirations.

Their association in this relatively selfless endeavor tends to generate among participants a climate of mutual respect and appreciation. Former San Jose Mayor Robert Doerr noted in a representative evaluation of sister city committee work at the 1959 Civic Committee Conference that, "a great many things have happened in San Jose as a result of the affiliation which have contributed to what we might call an era of good feeling. Local citizens working together for the first time on a program for the good of the community and the nation found they could cooperate. When called together for other civic projects, they knew each other personally and were off to a good start." The mechanism established by city affiliators in initiating and coordinating projects involving all community service organizations, the schools, churches, city officials, newspaper, and radio station, thus provides a vehicle for obtaining community action on local issues in the public interest.

A well-rounded sister city committee is a truly representative group that often provides a more accurate cross-section of community interest, occupations and concerns than the men officially charged with the city's affairs. As such, it can help channel community feelings into constructive endeavors and respond quickly to local, national and international challenges.

With the depth and the impact of sister city programs constantly on the increase, this widening experience in local action for international goals cannot help but produce more internationally conscious and thoughtful citizens across the length and breadth of America. This may well be on an age of national inter-dependence.

SOME CAUTIONS

While this power has so far confined itself to the positive aspects of town affiliations a number of definite cautions need to be observed by the committees operating the program to insure that it takes advantage of the opportunity to improve international relations. If these common sense cautions are consistently ignored, an affiliation can lead to more harm than good in the sum total of frayed tempers, irritations and mutual recriminations it will generate.

The author believes that the national organizations promoting the program as a pathway to peace and international cooperation are aware of the dangers inherent in projects not carefully planned and thought through. As will be shown in the succeeding section, their assistance to local committees is of a type specifically designed to avoid these pitfalls.

THE SUPERFICIAL APPROACH

If groups in a community embark on an international program without concern for a lasting and serious relationship, paying attention only to the local and transitory rewards of publicity, their foreign counterparts will soon come away disenchanted from a relationship that provides only the means to an essentially selfish end. A lasting affiliation cannot be built on a lavish one-time spectacle, nor on a drawn-out but empty ritual of contact which fails to deal in meaningful terms with mutual problems and curiosities substituting mere form and motion for the content of human relations.

Conversely, sincere but overly-enthusiastic approaches by American community groups steeped in the pragmatic tradition that in an age of salesmanship tends to get deafened by the sound of its own voice, may frighten and put on their guard overseas communities used to more formal and low-keyed approaches.

UNREQUITED AFFECTION

If repeated demonstrations of goodwill and suggestions of affiliation encounter only silence, if so to speak, the hand proffered in friendship is ignored by the prospective partner, people soon turn away with irritation and injured pride from their unsuccessful international experiment. They may become more parochial and less tolerant in their outlook than they were before. Equally as bad is the acquiescence of an uninterested city, too polite to refuse the insistent advances of a foreign community, but unwilling to live up to the foreign relations responsibilities it has acquired by following the line of least resistance. More perishable than most commodities, the tender shoots of municipal friendship need friendly care and protection during the planting period to insure they will thrive in the soil that receives them.

POLITICAL EXPLOITATION

Like the Olympic Games, city affiliations are intended to match the talents of skilled amateurs, in this case amateurs in the field of international relations. Participants in sister city activities work at the enjoyment of friendship across national frontiers as an avocation, a rewarding hobby in addition to their full-time pursuits. If governments, which are supposed to stay out of these private associations, infiltrate and exploit them for their own political objectives by dispatching trained "professionals" in the guise of "amateurs," the contest is likely to turn into an unequal propaganda exercise. Privately financed community efforts are no match for a government project able to absorb the travel costs of centrally available revenues.

MEETING THE PROBLEM

By intensive servicing of present and prospective town affiliations with information, advice and study guides, the organizations active in coordinating the program on a national level are seeking to avoid superficial or thoughtless approaches to experiments in international communication on the part of local communities. The Town Affiliation Association provides information on foreign countries, on customary procedures employed in establishing affiliations and on the tried and tested projects of other American communities. Affiliation committees are referred to program aids such as pertinent books or services available from private or public organizations and the experiences of other American cities in exchange programs with the country of their choice. There is much room for improvement in this field.

At present, only a handful of people are working nationally on this vital problem of servicing an information exchange, while

the number of affiliations keeps increasing at an accelerating pace. The danger of affiliations going sour because they lack sustained initiative, guidance and information calls for a considerably greater servicing effort than is now being expended. The disproportionately positive influence on foreign relations wielded by the sister city program in terms of national cost and effort more than merits such an increase in the scope and depth of professional servicing.

THE INTERMEDIARY

To avoid embarrassing rebuffs and the need for future disentanglements of one-sided affiliations that have become a liability rather than an asset to the international standing of a community, the Town Affiliation Association took its role as an intermediary between U.S. and foreign communities very seriously. In cooperation with foreign municipal and other organizations and with resident Americans abroad, the initial reaction of foreign city governments and local organizations to a proposed affiliation is carefully searched out.

If the answer is "no," be it because of other commitments, the pressure of more urgent projects, or just plain lack of interest, the middleman technique employed by TAA avoids hurt feelings at this point and the city looks elsewhere for a partner. Acting as a buffer between communities before they establish contact, the TAA approach on behalf of a member city permits an unwilling prospect to bow out more gracefully than would be possible after direct contact is established between the cities. The impersonal role of TAA as a broker allowed cities to react realistically rather than politely and avoids problems later.

KEEPING PROGRAMS OUT OF GOVERNMENTAL CONTROL

In order to maintain town affiliations on a non-political level, outside of domination by power structures opposed to free information exchange and the principles of representative government embodied in the municipal structure of U.S. communities, the Town Affiliation Association and other cooperating members in the western hemisphere decided to work only with the professional and non-political organizations affiliated with the International Union of Local Authorities in the pursuit of sister city programs.

American communities favor exchanges of persons and information with all countries but prefer, according to TAA, that these be carried on informally in cases where there is danger that an official city affiliation could be exploited for its own purposes by a hostile central government acting through local administrators.

A SISTER CITY PLAN

An outline of the process by which an American community establishes and operates a sister city program normally includes these steps:

An individual or a group becoming aware of the purposeful nature of town affiliations seeks to obtain community support through the Mayor's office by means of a steering committee including to the extent possible a cross-section of community leaders and organizations.

The committee reviews the human and physical resources of the community from the standpoint of starting and carrying through a successful affiliation program. The mayor usually serves as honorary chairman of this committee, which decides on the country and, in some cases, even the city or cities desired as prospective partner(s). Historical ties, ethnic composition of the community, factors of size and economy, cultural interests should have some bearing on the choice.

The committee will consult the list of foreign cities already affiliated with American communities to avoid duplicate efforts and secure information on existing programs and techniques from the Town Affiliation Association of the United States.

When the choice is narrowed down to a country or a particular city, the committee transmits its wishes to the Director of Town Affiliations at the Town Affiliation Association, together with background information, pamphlets, photos and other available graphic and visual material on the community to help TAA and its foreign affiliates in effecting a proper "introduction" to the prospective partner overseas.

The Town Affiliation Association working with local resident Americans or government officials overseas assures itself of reciprocal interest by local authorities in the proposed foreign city. When that interest is established, direct contact ensues between the two cities who will have established counterpart committees to carry on exchange projects.

The first such project is the official act of affiliation, in the form of a resolution passed by the city council, which is exchanged with the municipal government of the sister city at ceremonies in both cities by representatives of the foreign city or its national government.

While these first contacts between sister cities are made at the municipal level, the next contacts take place on a continuing basis between organized counterpart groups in each community—the schools, service clubs, Chambers of Commerce, labor unions, professional associations, women's clubs, veterans, youth and hobby groups. From these official and organizational relations comes the people to people contacts that alone assure the success and continuity of a sister city program.

The scope and nature of the privately-sponsored exchanges of ideas, persons and objects, which form the core of a continuing town affiliation, is limited only by the imagination and resources of participating communities. Information on the types of successful projects undertaken by U.S. communities is available without charge from the Town Affiliation Association of the United States, 1612 K Street, N.W., Washington, D.C.

A survey by the Town Affiliation Association of existing town affiliation conducted by questionnaire has clearly established that the most active sister city programs are those supported to the greatest extent by the mass media of the community. To insure that the program filters down to the third and most important level of sustained people-to-people contact, it is essential that exchange projects, fund-raising drives and local events connected with the sister city receive frequent and extensive coverage by the newspaper, radio/TV stations and the public service advertising of the commercial community.

The elements of continuing personal contact and wide community participation constitute in the American experience the only basis of a town affiliation that lives up to its promise of passing on to the next generation a heritage of improved relations on a very small planet.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How Long?

LET'S BUILD A SPACE SHUTTLE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. TEAGUE of Texas. Mr. Speaker, Industrial Research, one of the leading technical-managerial journals of today regularly conducts polls among its readers on significant national issues. The development of a low cost space transportation system, I am convinced, is not only essential for a strong national space program but also for our national security and the long-range economic well-being of our Nation. The November 1971 issue of Industrial Research asked its readers a number of significant questions about our national space program and particularly the development of a low cost transportation system—the space shuttle. The results of that poll overwhelmingly support the need for a space shuttle program. I am including this poll in the CONGRESSIONAL RECORD because of its significance in the decisions that will have to be made by the Congress in the near future.

The poll follows:

OPINION POLL RESULTS—LET'S BUILD A SPACE SHUTTLE

A significant majority, more than 83%, of respondents to the August "Opinion Poll" questionnaire favor a continued emphasis on space exploration via the space shuttle.

Forty-one percent of the survey respondents thought the space shuttle program will provide the most economical approach to future space exploits now that the Apollo flights are nearing completion. Only a few respondents felt that employment, national security, and our position in space were important factors in considering the shuttle project.

Little concern was evidenced, only 17%, that the space shuttle program would siphon money away from purely scientific space projects.

Tabular results of the August poll are presented below:

Q. 1: Do you favor the proposed space shuttle project?

	Percent
Yes	83
No	17

Q. 2. Which one of the following arguments cited by shuttle supporters do you think is most significant?

	Percent
It is the most economical approach to future exploits	41
It will aid employment and national security	8
Without it the U.S. will become a second-rate power in space	6
It is critical to the survival of NASA	4
All of the above	35
None of the above	6

Q. 3. Which of the following arguments cited by shuttle opponents do you think is most significant?

	Percent
It will take funds away from needed social problems	42
The economies proposed are unlikely	8
There is little application for such a vehicle	5
Now that we've reached the moon, there is no need for further space involvement	2
All of the above	6
None of the above	37

Q. 4. Some scientists oppose the shuttle program because they fear it will take dollars away from purely scientific space projects. Do you agree?

	Percent
Yes	17
No	83

Q. 5. If the shuttle program is defeated, NASA will have no major projects following the Apollo flights. In your opinion, what should be the future of NASA?

	Percent
Continue to seek other major space projects	56
Exist as smaller organization for limited space work	21
Conversion to work on other national priorities	19
Disbandment after completion of current programs	4

Q. 6. Why is the space program—the glorious offspring of the 1960s—now fighting for its life in the 1970s?

	Percent
Public now is more concerned with social problems	25
Involvement in Vietnam has drained funds and interest	11
A growing dissatisfaction with science and technology	16
Goal of being first on moon was accomplished	6
All of the above	38
None of the above	4

SENATE—*Wednesday, November 24, 1971*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

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

Eternal God, ruler of men and nations, at this festival of thanksgiving our hearts are warmed and our minds uplifted as we think of Thy goodness and mercy to our Nation and to each of us.

We thank Thee for home and family; for children, for their brave play and startling frankness; for youth, and their high idealism, their irreverence for worn-out values; their search for freedom and their solemn vows.

We thank Thee for growing up and growing old, for wisdom deepened by experience.

We thank Thee especially for this good land which Thou hast given us for our heritage; for freedom under Thy rulership; for institutions created and illumined by Thy Spirit; for Thy guiding hand on our pilgrimage through the years that are past; and for a place of honor and service among the nations.

We thank Thee for the bright hope of a world of justice and righteousness and for every advance which brings nearer the day of Thy kingdom.

We thank Thee for all that has been done to eliminate poverty and disease and to provide a better life for all the people.

We thank Thee especially for reduced combat, for diminishing bloodshed on faraway battlefields and for the hope of peace with justice and security.

We thank Thee for leaders who put their trust in Thee and for all workers whose motive is service to all mankind.

Come upon us afresh to make us new with Thy divine spirit that we may "be strong in the Lord and in the power of His might."

Send us to our homes and our churches with thanksgiving in our hearts and praise to Thee on our lips.

We pray in the Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, November 23, 1971, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination in the Geological Survey, under New Reports.

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

The PRESIDENT pro tempore. The nomination on the Executive Calendar, in the Geological Survey, under New Reports, will be stated.

GEOLOGICAL SURVEY

The second assistant legislative clerk read the nomination of Vincent E. McKelvey, of Maryland, to be Director of the Geological Survey.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed; and without objection, the President will be immediately notified of the confirmation of the nomination.

LEGISLATIVE SESSION

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

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

MAJOR GENERAL SHOUP—A MARINE'S MARINE

Mr. MANSFIELD. Mr. President, Newsweek magazine for November 29, 1971, contains an article entitled "A Marine's Marine."

It refers to the former Commandant of the Marine Corps, Maj. Gen. David Monroe Shoup, who, incidentally, happened to be born in a place called Battleground, La.

I ask unanimous consent to have the article printed in the RECORD.

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

WHERE ARE THEY NOW?—A MARINE'S MARINE

In the fall of 1959, when Maj. Gen. David Monroe Shoup was catapulted over the heads of nine senior officers to become the 22nd commandant of the U.S. Marines, divided leadership and controversy over hard-nosed training methods had driven the fabled morale of the Corps to an all-time low. Almost from the day he took charge, however, the bespectacled, barrel-chested Shoup—a Medal of Honor winner for his gritty leadership of the marines' bloody victory at Tarawa—began to revive the Corps' sagging esprit. In the process, he pointedly defied many of the most cherished Marine traditions, overhauling the training program, replacing obsolete landing craft with helicopters and even abolishing the swagger stick. But Shoup also insisted upon strict adherence to the old-fashioned personal virtues and ramrod discipline that had made him the epitome of a marine's marine.

Ironically, it was not until several years after his retirement in 1963 that the general public first learned about the maverick side of Shoup's character. Shoup's widely reported observation that "the whole of Southeast Asia is [not] worth the life of or limb of a single American" severely jolted the nation's military brass in 1966. And later, the increasingly dovish ex-general shocked the entire military-industrial complex by asserting that the U.S. should "keep [its] dirty, bloody, dollar-crooked fingers out of . . . these [exploited] nations."

DOOMED

Today, although he seems less eager to enter the verbal arena than in years past, Shoup believes that his criticisms of the Vietnam war effort have long since been confirmed. "I was among the first," he recalls somewhat wearily, "to say we could not win because we were not permitted to go to the heart of the war—to North Vietnam." For the same reason, he believes, President Nixon's Vietnamization program is also doomed to failure. "As soon as we get out," the peppery, white-haired grandfather of four asserts, "North Vietnam will be able to move right in and take over." Sadly, he adds: "After all that killing—it is frustrating, frustrating."

At 66, Shoup and his wife, Zola, live in a hilly, wooded enclave of Arlington, Va., just