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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 91<sup>st</sup> CONGRESS, SECOND SESSION

## SENATE—Monday, June 15, 1970

The Senate met at 12 noon and was called to order by the Honorable WILLIAM B. SPONG, JR., a Senator from the State of Virginia.

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

God of all power and might, the maker and ruler of men and nations, we thank Thee once more for all the hallowed memories and sacred sentiments which cluster about the flag.

O Lord, make the flag a sign of service and sacrifice, of justice and brotherhood, and of peace and good will to all people. Bless this Nation and make it a blessing to all mankind. Give us zeal to correct what is wrong, power to assert what is right, and wisdom to discern one from the other. In this hour of history unite our broken, separated, contentious people around this ensign of brotherhood and freedom. May the flag float in majestic silence, in times of stress and tranquillity, in war and in peace, in prosperity and adversity as a symbol of hope and peace for men everywhere. And may the Nation so represented ever remain a nation whose God is the Lord. In the name of the Great Redeemer. Amen.

### DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, D.C., June 15, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. WILLIAM B. SPONG, JR., a Senator from the State of Virginia, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,  
President pro tempore.

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

### MESSAGES FROM THE PRESIDENT—APPROVAL OF A BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Jones, one of his secretaries, and he announced that on June 12, 1970, the President had approved and signed the act (S. 3339) to

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authorize the Public Printer to fix the subscription price of the daily CONGRESSIONAL RECORD.

### REPORT ON THE INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE PROGRAM—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. SPONG) 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 Foreign Relations:

To the Congress of the United States:

I transmit herewith the annual report on the international educational and cultural exchange program conducted during the Fiscal Year 1969 under the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87-256, the Fulbright-Hays Act).

This program, in Fiscal Year 1969, exchanged more than 6,500 teachers, scholars, students and distinguished leaders between the United States and 132 countries and territories. More than 2,000 of these were leaders, potential leaders and professionals from other lands who came to observe and study the United States, its people and institutions. Cumulatively, from 1949 through 1969, 132,380 United States and foreign grantees have been exchanged under this State Department program.

This exchange has directly contributed to the achievement of our foreign policy objectives. Observing and working with colleagues here on mutual problems, our visitors have established personal and institutional relationships which persist through the years. They have realized what they have in common with us, as well as our differences. Together with American grantees studying and teaching abroad, they have contributed greatly to the store of knowledge and understanding of our respective cultures, penetrating below the surface news and impressions of the mass media.

This report for the Fiscal Year 1969 educational and cultural exchange program is largely devoted to an aspect of the program too often overlooked—that is, the extraordinary extent to which it receives the cooperation and assistance, including financial assistance, from United States private groups, private individuals, private educational institutions and business corporations. This private cooperation not only indicates the high level of citizen interest in exchange but

gives the program its essential character and effectiveness.

Perhaps in no other way have the American people made so direct a contribution to our foreign policy objectives for the 1970s which I defined in my February 18 message to Congress.

I commend this report to the thoughtful attention of the Congress.

RICHARD NIXON.

THE WHITE HOUSE, June 15, 1970.

### EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. SPONG) laid before the Senate a message from the President of the United States submitting the nomination of George Beall, of Maryland, to be U.S. attorney for the district of Maryland, which was referred to the Committee on the Judiciary.

### THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, June 12, 1970, be dispensed with.

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

### ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 11 a.m., tomorrow.

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

### ORDER FOR RECOGNITION OF SENATOR HATFIELD ON TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on tomorrow, after the disposition of the Journal, the distinguished senior Senator from Oregon (Mr. HATFIELD) be recognized for not to exceed 1 hour.

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

### ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, following the remarks of the distinguished Senator from Oregon on tomorrow, there be a

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period for the transaction of routine morning business, with statements therein limited to 3 minutes.

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

#### ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

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

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

#### WAIVER OF THE CALL OF THE CALENDAR

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

The ACTING 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 nominations in the Department of Health, Education, and Welfare, and the Department of the Treasury, only.

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

The ACTING PRESIDENT pro tempore. The nominations on the executive calendar will be stated.

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The bill clerk proceeded to read sundry nominations in the Department of Health, Education, and Welfare.

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

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered en bloc.

Mr. MANSFIELD. Mr. President, may I say, it is with extreme regret that I note that Under Secretary of State Elliot L. Richardson will be leaving his department.

It is with anticipation, though, that I look forward to his becoming the Secretary of Health, Education, and Welfare.

I regret his leaving the Department of State, because he has been a sound administrator. He has been effective and efficient as the strong right arm of Secretary of State William Rogers.

I express the hope that someone as competent and as effective will replace Mr. Richardson in that most important of all departments, the department which, incidentally, gets by on the very lowest budget of all.

Mr. JAVITS. Mr. President, I join the Senator from Montana in respect of Secretary Richardson, for whom I have great admiration and who has been drafted to a new post.

I join the majority leader in the expectation that someone at least of equal caliber will be appointed to succeed him.

Mr. AIKEN. Mr. President, I join the majority leader in expressing gratification that Elliot Richardson is to take over the very important job in Government of Secretary of Health, Education, and Welfare.

I express regret that he is leaving the State Department, and extend to Mr. Richardson both my congratulations and my sympathy.

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

#### DEPARTMENT OF THE TREASURY

The bill clerk read the nomination of Samuel R. Pierce, Jr., of New York, to be General Counsel for the Department of the Treasury.

Mr. JAVITS. Mr. President, Samuel R. Pierce, Jr., is a very distinguished New York lawyer, who formerly served as a justice of the supreme court of New York State.

I have known Mr. Pierce literally since he went to law school, and have great admiration for him.

The State of New York should be congratulated on having produced such a valuable lawyer and I am very much pleased and gratified that he is being confirmed by the Senate for this high post in which I feel he will serve the Nation magnificently.

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

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

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

#### LEGISLATIVE SESSION

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

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

#### COMMITTEE MEETINGS DURING SENATE SESSION

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

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

#### THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 928 and 929 only.

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

#### TOURS OF DUTY IN HOSTILE FIRE AREAS

The bill (S. 3948) to amend sec. 703(b) of title 10, United States Code, to extend the authority to grant a special 30-day leave for members of the uniformed services who voluntarily extend their tours of duty in hostile fire areas was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3948

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 703(b) of title 10, United States Code, is amended by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1971".*

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-927), explaining the purposes of the measure.

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

#### PURPOSE

The purpose of this bill is to amend section 703(b) of title 10, United States Code, to extend until June 30, 1972, the authority to grant a special 30-day leave for members of the uniformed services who voluntarily extend their tours of duty in hostile fire areas.

#### BACKGROUND

This is a Department of Defense legislative recommendation, and urgent action is recommended by the Department since the existing temporary authority will expire on June 30, 1970.

Briefly, enactment of this legislation is necessary to enable the Department to continue its very successful program of persuading military personnel in Vietnam to voluntarily extend their tours of duty or reenlist in that area.

Since 1965 the normal tour of duty in Vietnam for military personnel has been 12 months. From the standpoint of stability and continuity, the 12-month tour is less than ideal. Nonetheless, we continue to believe that any involuntary increase in the tour length would be inequitable and would affect morale adversely. The tour length policy has been reviewed several times, and it remains our firm conviction that retention of the 12-month tour is essential to combat efficiency, health, and morale, and that, except for the most senior officers, any extension should be entirely voluntary.

Section 703(b) of title 10, United States Code, now provides for individuals committing their service for at least 6 additional months in a hostile fire area a net period of 30 days' leave, not chargeable to any other leave account, at a location selected by the individual with transportation at Government expense. Were it not for this legislation, any leave, including traveltime, granted under such a program would be chargeable to the individual's leave account. Additionally, transportation could be furnished only on a space-available basis.

The law was first enacted in 1966, by the 89th Congress, to be effective only in the case of members who extended their required tours of duty on or before June 30, 1968. In 1968 the 90th Congress amended the law to extend the terminal date 2 additional years. As it now stands, the law will expire June 30, 1970.

The acceptability of this legislation may be illustrated by the number of individuals assigned to Vietnam who have participated. For the period November 2, 1966, through

March 31, 1970, 5,303 officers and 162,883 enlisted personnel, an overall total of 168,186, had taken the special 30-day leave gained by voluntarily extending their Vietnam tour at least 6 months. For the past 2 years the number has averaged slightly more than 13,500 per quarter. These data continue to confirm the original belief that a number of dedicated individuals would volunteer to serve longer than the required period of service in Vietnam if the period could be broken into reasonable segments.

The cumulative effect of the longer in-country service of those who extend their tours of duty has some impact on the requirement for replacements and hence, results in some savings to offset the transportation costs. The relative value of continuing the authority, however, is not in monetary savings that might be achieved, but rather in effectiveness attained through the continuity of service in Vietnam of area-oriented, trained, experienced, motivated personnel.

#### FISCAL ASPECTS

Enactment of this proposal would not result in any increase in budgetary requirements for the Department of Defense.

Mr. KENNEDY subsequently said: Mr. President, I ask unanimous consent that the action of the Senate earlier today in passing S. 3948 be rescinded, and that the bill be restored to the calendar.

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

#### CRATERS OF THE MOON NATIONAL MONUMENT, IDAHO

The bill (S. 1732) to designate certain lands in the Craters of the Moon National Monument in Idaho as wilderness was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

#### S. 1732

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in accordance with section 3(c) of the Wilderness Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1132(c)), certain lands in the Craters of the Moon National Monument, which comprise about forty thousand seven hundred and eighty-five acres and which are depicted on a map entitled "Recommended Wilderness, Craters of the Moon National Monument, Idaho," numbered NM-CRA-9011 and dated August 1967, are hereby designated as wilderness. The map and a description of the boundary of such lands shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. (a) The area designated by this Act as wilderness shall be administered by the Secretary of the Interior pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented and the applicable provisions of the Wilderness Act.

(b) Only those commercial services may be authorized and performed within the wilderness area designated by this Act as are necessary for activities which are proper for realizing the recreational or other wilderness purpose thereof. There shall be no permanent road therein and, except as necessary to meet minimum management requirements in connection with the purposes for which the area is administered (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment, or other form of mechanical transport, no

structure or installation, and no landing of aircraft within the area designated as wilderness by this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-928), explaining the purposes of the measure.

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

#### PURPOSE

The purpose of S. 1732 is to designate 40,785 acres of the Craters of the Moon National Monument in Idaho as part of the national wilderness preservation system, pursuant to provisions of the Wilderness Act (Public Law 88-577).

#### BACKGROUND

Craters of the Moon National Monument was established in 1924 by proclamation No. 5694. It is located in Butte and Blaine Counties, Idaho, on the northern edge of the Snake River Lava Plain. It contains 53,545 acres, all federally owned. The monument is located principally in an area of public domain lands.

The national monument is noted for its volcanic geology and the stark and awesome character of the cinder cone studded lava plain. The Great Rift, a complex fracture zone running diagonally in a northwest-southeast direction across the monument, contains numerous lava flows, but is particularly dramatized by a series of cinder cones. The contrast between the rough bleak lava flows and the smooth gentle contours of the cones rising above them forms the character of the landscape.

Vegetation is sparse. The lava flows, destroying all plant life in their paths, present an inhospitable environment to plants on their barren surface. The succession of plant and animal communities that develop under these conditions demonstrate interesting aspects of ecological succession on volcanized areas.

Only rarely has a sizable island of vegetation escaped the devastation of lava and volcanic ash. Carey Kipuka, in the southwest corner of the monument and within the proposed wilderness, is such an island of comparatively undisturbed grassland. Preserved in relative isolation, it is of great scientific value in studies to determine the extent to which volcanic action has modified adjacent ecological conditions.

#### THE WILDERNESS PROPOSAL

Craters of the Moon National Monument contains a roadless area of 42,609 contiguous acres and was therefore subject to the review provisions of the Wilderness Act. Review was completed in 1966, and following a public hearing, the Interior Department recommended in 1968 to the President that a 40,785-acre roadless area be designated as wilderness. This recommendation was also made to the Congress. S. 1732 would establish as wilderness the area recommended earlier by the Executive communication of April 1, 1968.

The total acreage within the monument that is recommended for designation as wilderness is essentially the same as that initially proposed at the time of the public hearing. Additional study by the National Park Service and an analysis of the views received on the preliminary wilderness proposal resulted in a number of relatively minor adjustments. The recommended wilderness comprising approximately three-fourths of the land of the monument, is the result of careful studies. The area contains approximately half of the Great Rift, the major portions of the principal lava flows, the Carey Kipuka, Crescent, Coyote, and Fis-

sure Buttes, and innumerable cones, craters, caves, and other phenomena characteristic of volcanic action.

No trails or structures exist in the area recommended for wilderness.

#### THE NEED

About 200,000 visitors now come to the monument each year. Facilities for them include a visitor center, a campground and picnic area, a motor nature trail, foot trails, and interpretive devices. The present campground will eventually be converted to a picnic area and a new campground will be built at the base of the Pioneer Mountains, outside of the primary geologic area. The present motor nature trail is to be extended as a one-way loop around Big Cinder Butte to permit better visitor access, and intercosts contemplated by the enactment of the monument.

#### COST

There would be no increases in budgetary cost contemplated by the enactment of S. 1732.

QUESTION: WHAT WAS THE MOST SUCCESSFUL THIRD PARTY IN U.S. HISTORY? ANSWER: THE GOP—A THIRD PARTY MAY BE A REAL FORCE IN 1972

Mr. YOUNG of Ohio. Mr. President, opposition to this Nation's immoral undeclared war in Indochina is now widespread in this country. It was not always so. That it is so today is due in part to the conviction of a few U.S. Senators who refused to remain silent during the years from 1964, denouncing their own President and party leaders for sending hundreds of thousands of American combat ground forces to fight in Vietnam and involving our Nation in a civil war in the far away asiatic country, of no importance to the defense of the United States.

On March 1, 1966, there were only five Senators who voted to repeal the Gulf of Tonkin resolution concerning which President Johnson claimed authority to wage a major war in Southeast Asia without sanction of Congress. Those five were Senators FULBRIGHT, MORSE, GRUENING, McCARTHY, and myself. Those familiar with the political history of the United States will speak with admiration in years to come of the brave campaign waged by the senior Senator from Minnesota (Mr. McCARTHY) who announced his candidacy for the Democratic nomination for President challenging President Lyndon Johnson, assailing the leaders of his party and the President of our Nation who was then regarded as a certain nominee for reelection.

Sensing the changing currents within the country, especially the growing disaffection of the young, he challenged the formidable power of an incumbent President of his own party. His was a lonely road of opposition against incredible odds, but he moved within the political system and he made it work. In so doing he forced Americans to reexamine not only the war but also the potential of their political systems. The net result of his campaign came when President Johnson to the surprise of many political leaders of both parties unexpectedly announced that he would not be a candi-

date for reelection and would not accept a nomination.

The New York Times Magazine of June 7 contains an article written by our colleague the distinguished senior Senator from Minnesota (Mr. McCARTHY) in which he analyzes the history of the third parties in our country and the possibilities of emergence of one or more in 1972.

Mr. President, this article written by our colleague is an interesting and provocative study of challenges which face the traditional two-party system of our Nation. I ask unanimous consent that this article which I believe will be of interest not only to our colleagues but to people generally be printed in the RECORD at this point.

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

QUESTION: WHAT WAS THE MOST SUCCESSFUL THIRD PARTY IN U.S. HISTORY? ANSWER: THE GOP—A THIRD PARTY MAY BE A REAL FORCE IN 1972

(By EUGENE J. McCARTHY)

WASHINGTON.—It is not unlikely or unreasonable to believe that there will be a liberal third-party movement by 1972. Dissatisfaction with the two major parties is widespread. This dissatisfaction is not regional or sectional. It is not restricted to one economic or cultural group, but is based upon frustration and disappointment which has a historical base.

In the case of the Republican party it began in 1964 when many liberal or moderate Republicans, including Governor Rockefeller felt that their position was in no way recognized or represented in the party's choice of Senator Goldwater and refused to support his candidacy. The nomination of RICHARD NIXON in 1968 did not wholly allay their doubts about their party. This concern has been stirred by the increasingly evident Southern strategy of the Nixon Administration.

Many Democrats experienced similar frustration in 1968, when candidates and proposals of antiwater Democrats were rejected in Chicago, and delegates supporting those candidates and advocating change in policy were beaten and abused in the convention hall, in the Hilton Hotel, and on the streets in the city of Chicago.

One of the slogans of the Goldwater campaign of 1964 was "A choice not an echo." One of the cynical observations on the 1968 campaign was "Not a choice but two echoes." Reflecting this unhappiness over the lack of choice, many persons urged Governor Rockefeller to run. In some 25 states an effort was made to place my name on the ballot.

There are serious obstacles to a third-party movement in the United States.

Party loyalty is still a real force in United States politics. The older voters get the more they have voted for one party and the greater is their commitment to that party.

The campaign of George Wallace should have pleased older voters more than younger ones, since older people are more likely to be segregationists, to insist mechanically on "victory" in Vietnam, and to oppose demonstrations. Yet, despite the supposed affinity of older voters for Wallace's issues, Wallace attracted fewer voters among older people in 1968 than from among younger people. According to a University of Michigan study published in *The American Political Science Review* in December, 1969, among voters under age 30 outside the South, 13 per cent voted for Wallace. This percentage declined steadily with age until it reached 3 per cent for those over 70.

Even though George Wallace did not seem

to have a special appeal for the young, he was able to draw larger portions of young voters than of older voters from the two major parties.

In addition to loyalty and commitment, there is a traditional argument for the two-party system. Throughout most of our history, political action has been centered in two major parties. The working of the two-party system has been a matter of some pride to us. We have been quick to assert that a two-party system makes democracy work, whereas a multiparty system, such as that in operation in some European countries and in most of the Latin-American countries, is not conducive to good democratic government.

The idea of the two-party democracy has been accepted, as Elihu Root observed, as the mark of political maturity and responsibility to the point where a challenge to such a system is looked upon as almost heretical. It may be a mark of maturity; on the other hand, the two-party system is showing signs of weakness.

Party loyalty is declining. More and more persons, when asked to give their party designation, are calling themselves independents. Many others, who still call themselves either Democrats or Republicans, do not have the kind of loyalty that once marked party membership.

A recent Harris poll of the general population showed that 19 per cent of American voters called themselves independents in February, 1970, as opposed to 17 per cent in November, 1968. While the numbers of independents have increased by only two percentage points in a year and a half, a breakdown of the poll does provide some indication of the possible constituency of a third party. From 1968 to 1970, independent sentiment in the East grew by nine percentage points—from 15 to 24 per cent. In the cities the increase has been eight points—from 16 per cent in 1968 to 24 per cent today.

Among low-income voters, independent strength has grown by five points—from 16 per cent to 21 per cent, although this increase tends to be offset somewhat by the drop in independent sentiment and a gain by the Republicans among those with not more than an eighth-grade education. Independent identification among those of high-school education has grown by five points—from 18 to 23 per cent; among Catholic voters it has grown by six points, and among Jewish voters by five points. These are, in my judgment, significant increases in the course of only a year and a half.

The electorate is growing younger. Nearly 48 per cent of the population has not yet reached the age of 26. Under the present voting-age limits, voters in this age group constitute 13 per cent of the electorate. If the voting age is lowered to 18 on a nationwide basis, voters under the age of 26 will constitute 20 per cent of the electorate.

In December, 1969, a Gallup poll among college students showed that 52 per cent considered themselves to be independents; in a similar poll in 1966, only 39 per cent indicated that they were independents. The younger voters who now consider themselves to be independents could substantially increase the constituency of a third party.

The theoretical argument for the two-party system is also subject to challenge. A two-party system may be a device that makes immature democracy work, but it is less necessary in a mature democracy; that is, one with more democratic procedures and a better informed and more responsible electorate. The two-party system can be defended only if the parties themselves are responsive to the needs of the country and if they give the people a choice and a voice on major issues affecting the country.

In fact, a coalition might result in better government. For example, had the choice of a President been thrown into the House of

Representatives in 1968, the House could well have made as good a choice as that made by the less than a majority of voters who elected Richard Nixon. A formal and identifiable coalition in the House and Senate might work better than the floating coalitions which now mark the Congress.

The theoretical argument aside, the fact is that the two-party tradition is not as strong in the United States as it has been made out to be. It has been challenged regularly since the beginning of the American republic. In the election of 1796, for example, there were 13 candidates for the Presidency. Five were Federalists, three Democratic-Republicans, one Anti-Federalist, three Independent-Federalists, and one Independent.

Most of the political contests during the early decades of our national existence were among factions within the Democratic-Republican party. It was Andrew Jackson and his policies in the eighteen-thirties that stirred up criticism and brought about the showing of party opposition in what became the Whig coalition and set the stage for the splinter-party movements that followed.

After 1840, there were splinter parties in almost every election. Most are remembered for lost causes like free silver, greenbacks, the single tax, and the like. Some are credited with developing important policy positions on such things as monopolies, regulation of the railroads, and price supports for agriculture. In addition to their indirect influence, splinter parties have had more obvious and measurable success.

In 1848, Zachary Taylor, a Whig, won over Cass, a Democrat, while Van Buren, running on the Free-Soil ticket, drew 10.14 per cent of the vote. Thirteen Free-Soilers were elected to the House of Representatives, and two of their party were sent to the Senate. In the House, where neither the Whigs nor the Democrats held an absolute majority, the Free-Soilers held the balance of power in the next Congress.

By 1856, the Free-Soil movement has disintegrated and a new third-party—the Republican party—had been born. In that year, Buchanan, a Democrat with 45.3 per cent of the vote, defeated Frémont, a Republican who received 33 per cent, and also Fillmore, who ran as the American candidate and received 21.57 per cent of the vote.

The main issue of the Republicans was that of keeping slavery out of the territory then being opened for settlement. The Republican party also included all-out abolitionists, Free Soilers, Independent Democrats, Conscience Whigs, Know-Nothings, Barnburners, and Prohibitionists. But more important than the issues was the cultural cohesiveness of the party. The Republican party was then made up principally of "Yankees" in New England and in the states in the northern half of the United States to the west, the population of which at that time was made up principally of those who had moved from the New England states.

In 1860, within 10 years after it was founded, the Republican party, with only 39.8 per cent of the national popular vote, was able to win enough electoral votes to elect Lincoln as President of the United States. This was quick success for the new party, which went on to dominate the politics of the Midwestern states until well into the 20th century.

Not all third-party or splinter-party movements were as successful as was the Republican party. Between 1864 and 1896, the splinter-party vote, however, was a significant negative influence in Presidential elections. In those years Western states on the average cast 5 per cent of their votes for agrarian parties. During these years, nearly all the Western and many Midwestern states were delicately balanced between the two major parties that only three states—Republican Kansas and Democratic Arizona and

New Mexico—cast cumulative majorities for either major party. As these states switched from side to side, they generally switched together and helped choose many Presidents.

Third parties have also been successful in electing members of Congress. Since 1855, third parties have been represented in the Senate 85 times and in the House of Representatives 314 times. The high points of third-party representation were in the late eighteen-fifties and the early eighteen-sixties, when the American party, as a third party, in one Congress had 43 members of the House of Representatives. This was at a time when the total membership of the House was only 234. In the eighteen-nineties, the Populists had at one time 40 members of the House of Representatives and held from six to seven Senate seats.

The high point for third-party representation in the 20th century was in 1937 and 1938, when the House of Representatives had 13 members who were neither Republicans nor Democrats, and four Senators—a mixture of Progressives and Farmer-Laborites.

The record of third parties in Presidential politics in the 20th century is one of mixed success. The campaign of Teddy Roosevelt in 1912 was outside the usual context of a third-party movement; that is, it was not a real third-party effort. It was not regional. It was not based upon ideological differences within the Republican party, nor was it carried on as an educational program but simply sought victory for Theodore Roosevelt. Wilson was elected in 1912 with 41.8 per cent of the popular vote. But Theodore Roosevelt received 27.4 per cent of the national vote, which was a higher percentage than the regular Republican candidate received in that same year. He was credited or blamed for the outcome of that election.

Since the end of World War II, the only splinter parties that have been able to win electoral votes have been based in the South. In 1948, Senator Strom Thurmond's Dixiecrat party received 2.4 per cent of the vote and 39 electoral votes. In the same year, Henry Wallace, as the candidate of the Progressive party, also won 2.4 per cent of the vote but did not win any electoral votes. George Wallace, running in 1968 as an Independent, carried five Southern states, drew 13.4 per cent of the national popular vote, and gained 46 electoral votes. Wallace was strong enough to keep both Nixon and Humphrey from winning clear majorities in 25 states.

The third-party movement in New York, the Liberal party, is unique and indicates very little as to the national bearing of third parties. Its most recent credit was the election under its name of Mayor John Lindsay after he had been defeated in the Republican party primary. The national significance of this victory is not yet clear.

The strength of a third-party movement in 1972 will not depend very much on study of the history of third-party efforts in the 19th century or in the 20th century, or on reflections on the strength and weaknesses of a two-party system. It will depend principally upon these three things:

First, the issues or issue. If there is an issue in 1972 comparable to that of the war in 1968, and if neither the Democratic nor Republican party takes a clear position, it is almost certain that a third party of some strength and substance will emerge. The recent extension of the war into Cambodia without even vague treaty authority and the emergence of a Nixon theory of destroying sanctuaries and support-positions make it less likely that the Nixon Administration will have removed this issue by 1972. The hesitation and contradictions within the Democratic party at this time do not indicate that that party's position will be significantly changed from what it was in 1968.

Even without the emergence of a clear issue or position on issues, growing dissatis-

faction with party processes themselves, with current political procedure and institutions could be expressed in a move to establish a new party which would provide for more open and more effective participation by those who are affected by political decision. It appears now that the Democratic party is not likely to do much about the reforms recommended at the convention and also by the McGovern Commission on Party Structure and Delegate Selection. The Republican party is not even talking about procedural reform.

The third is the unpredictable and uncertain factor of the personalities of those who may lead a movement.

These reasons taken altogether—dissatisfaction with the major parties, growth of the independent attitude in politics, a younger electorate, concern over party procedures, the measureable and evident success of the Wallace movement and of liberal or independent candidates in city elections, rejection of old ideas about the virtue of a two-party system—make a third party not only possible, but potentially a real force in determining the outcome of the election in 1972.

#### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 17970) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes, in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Acting President pro tempore (Mr. SPONG):

H.R. 1012. An act to amend the act of October 25, 1949 (63 Stat. 1205), authorizing the Secretary of the Interior to convey a tract of land to Lillian I. Anderson;

H.R. 9854. An act to authorize the Secretary of the Interior to construct, operate, and maintain the East Greenacres unit, Rathdrum Prairie project, Idaho, and for other purposes;

H.R. 12860. An act to establish the Ford's Theatre National Site, and for other purposes; and

H.R. 14300. An act to amend title 44, United States Code, to facilitate the disposal of Government records without sufficient value to warrant their continued preservation, to abolish the Joint Committee on the Disposition of Executive Papers, and for other purposes.

#### HOUSE BILL REFERRED

The bill (H.R. 17970) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

#### COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

#### REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Improved Guidance Needed For Relocating Railroad Facilities at Water Resources Projects, Corps of Engineers (Civil Functions), Department of the Army, dated June 12, 1970 (with an accompanying report); to the Committee on Government Operations.

#### REPORT ON EQUIPMENT TITLED IN NONPROFIT EDUCATIONAL INSTITUTIONS AND OTHER NONPROFIT ORGANIZATIONS

A letter from the General Manager, U.S. Atomic Energy Commission, Washington, D.C., transmitting, pursuant to law, a report on equipment titled in nonprofit educational institutions and other nonprofit organizations, for the calendar year 1969 (with an accompanying report); to the Committee on Government Operations.

#### REPORT OF THE LIBRARIAN OF CONGRESS

A letter from the Librarian of Congress, Washington, D.C., transmitting, pursuant to law, a report on the Library of Congress, including the Copyright Office, for the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on Rules and Administration.

#### PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A concurrent resolution of the General Assembly of the State of Iowa; to the Committee on Foreign Relations:

#### "HOUSE CONCURRENT RESOLUTION 135

"Whereas, approximately 1,350 American servicemen, including four Iowans who are known to be prisoners in North Vietnam; and

"Whereas, twenty to thirty Iowans who are reported missing and may be held as prisoners in North Vietnam; and

"Whereas, the government of North Vietnam has refused to release the names of all the prisoners it holds; and

"Whereas, some of these American prisoners have been held captive for as long as five years; and

"Whereas, the government of North Vietnam acceded to the Geneva Convention on June 28, 1957, the government of South Vietnam acceded to the Convention on November 14, 1953, and the government of the United States acceded to the Convention on August 2, 1955; and

"Whereas, the government of the United States and the government of South Vietnam have continuously honored the requirements of the Geneva Convention; and

Whereas, no pretense of compliance has been advanced by the government of North Vietnam or the National Liberation Front despite the reminder to do so on June 11, 1965, by M. Jacques Freymond, Vice President of the International Committee of the Red Cross; and

"Whereas, the provisions of the Geneva Convention require that every prisoner of war be enabled to write to his family; that every prisoner remain in communication with his family and with an international or state organization which has assumed the obligation of safeguarding the rights of the prisoner; that every prisoner has the right to receive mail and packages; that minimum humane standards of detention, hygiene, diet, recreation, and employment be complied with; that the detaining power accept a neutral party to the conflict or a respected international organization, such as the International Committee of the Red Cross, as a protecting power for the prisoners; that seriously injured or ill prisoners be repatri-

ated as soon as they are able to travel; and that the detaining power provide the names of the prisoners it holds to families as well as to the protecting power, or the Red Cross, to pass on to their country of origin; now therefore,

"Be it resolved by the House, the Senate concurring, That the General Assembly of the State of Iowa urges the General Assembly of the United Nations to intercede on behalf of the American servicemen being held as prisoners of war by North Vietnam and the National Liberation Front by insuring that the tenets of fair and humane treatment, as expressed in the Geneva Convention of 1949, are complied with by North Vietnam and the National Liberation Front.

"Be it further resolved, That copies of this Resolution be transmitted to the Secretary General of the United Nations, to each of the 124 delegates to the United Nations representing the 124 member nations, the President of the United States, the Vice President of the United States, the Speaker of the United States House of Representatives, the Chairman of the House Foreign Affairs Committee, the Chairman of the Senate Foreign Relations Committee, and to each member of the Congress from the State of Iowa.

"We, William H. Harbor, Speaker of the House of Iowa, and Roger W. Jepsen, President of the Senate, hereby certify that the above and foregoing Resolution was adopted by the House of Representatives and the Senate of the Sixty-third General Assembly, Second Session.

"WILLIAM H. HARBOR,  
"Speaker of the House."  
"President of the Senate."  
"ROGER W. JEPSEN,

Resolutions of the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Commerce:

"RESOLUTION OF THE COMMONWEALTH OF MASSACHUSETTS

"Resolution memorializing the Congress of the United States not to enact legislation removing statutory authority for the existence of the Selected Reserve of the Coast Guard

"Whereas, The President of the United States, in his Budget message to the Congress for fiscal year 1971, has requested funds sufficient only to phase out the Selected Reserve of the Coast Guard; and

"Whereas, The President has forwarded legislation to the Congress of the United States which would, if enacted, specifically remove statutory authority for the existence of the Selected Reserve of the Coast Guard; and

"Whereas, The Coast Guard Reserve has, since its establishment during World War II, contributed greatly to the defense effort of the nation, particularly in its military preparedness for the protection of its ports; therefore be it

"Resolved, That the Massachusetts House of Representatives respectfully urges the Congress of the United States not to enact legislation that would remove the statutory authority for the existence of the Selected Reserve of the Coast Guard; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, the presiding officer of each branch of the Congress and to the members thereof from this Commonwealth.

"House of Representatives, adopted, May 27, 1970.

"WALLACE C. MILLS,  
"Clerk.

"Attest:

"JOHN F. X. DAVOREN,  
"Secretary of the Commonwealth."

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. DOLE:

S. 3961. A bill to make permanent the authority of the Commodity Credit Corporation to transfer dairy products to military and veterans hospitals, and to make permanent the dairy farmer indemnity payment program; to the Committee on Agriculture and Forestry.

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

By Mr. METCALF:

S. 3962. A bill to revise and clarify the Federal Aid in Wildlife Restoration Act and the Federal Aid in Fish Restoration Act, and for other purposes; to the Committee on Commerce.

S. 3963. A bill to eliminate the 50-percent fraud penalty against an innocent spouse and to relieve an innocent spouse of the tax liability for stolen or embezzled funds; to the Committee on Finance.

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

S. 3964. A bill to make rules respecting military hostilities in the absence of a declaration of war; to the Committee on Foreign Relations.

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

By Mr. GORE:

S. 3965. A bill to provide for the establishment of a National Consumers Advisory Board, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. CASE:

S. 3966. A bill to prohibit the use of certain park and recreational lands for public work projects unless such land so utilized are replaced by lands of a like kind; to the Committee on Interior and Insular Affairs.

By Mr. BAKER (for himself, Mr. ALLEN, Mr. COOK, Mr. EASTLAND, Mr. GORE, Mr. SPARKMAN, and Mr. STENNIS):

S. 3967. A bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority; to the Committee on Public Works.

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

By Mr. AIKEN:

S.J. Res. 212. Joint resolution to authorize the President to designate the period beginning September 20, 1970, and ending September 26, 1970, as "National Machine Tool Week"; to the Committee on the Judiciary.

S. 3961—INTRODUCTION OF A BILL TO MAKE PERMANENT CERTAIN DAIRY PROGRAMS

Mr. DOLE. Mr. President, the dairy industry of the United States is faced with the expiration of important legislation very shortly. Section 202 of the Agricultural Act of 1949 provides for dairy products to be transferred from the Commodity Credit Corporation to military and veterans' hospitals. The authority for this program expires Decem-

ber 31, 1970. It is important that this authority be continued to insure the fullest utilization of this commodity in these hospitals.

Another pressing need for the dairy industry, however, is the continuance of the program providing indemnity payments to dairy farmers when the milk from their herds is contaminated by pesticide residue. This provides for a payment to the dairy farmer until the accidental contamination is eliminated from the milk. These payments amounted to \$300,000 in 1969, and the Department of Agriculture estimates the cost for 1970 to be \$200,000. The amount paid for this indemnity is testimony to the improvement the dairy farmers are making in the care and handling of pesticides, so as not to contaminate their production. The payments are specified to be no more than a producer would have received if he had produced and marketed a quantity of milk equal to his normal marketings.

With the considerable investment that each dairy farmer has in his equipment and herd and his dependence upon this daily production, this protection from some unforeseen contamination is certainly a valuable and reassuring law that should be continued.

Mr. President, I introduce, for appropriate reference, a bill that would make both the veterans' and military hospital milk program and the dairy indemnity payment programs permanent by repealing the expiration sections of each law.

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

The bill (S. 3961) to make permanent the authority of the Commodity Credit Corporation to transfer dairy products to military and veterans' hospitals, and to make permanent the dairy farmer indemnity payment program, introduced by Mr. DOLE, was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

S. 3964—INTRODUCTION OF A BILL TO ESTABLISH RULES RESPECTING MILITARY HOSTILITIES IN THE ABSENCE OF A DECLARATION OF WAR

Mr. JAVITS. Mr. President, the attention of the Senate has been focused on measures which would invoke the appropriations powers of the Congress to limit the exercise of discretionary authority by the President as Commander in Chief with respect to the ongoing hostilities in Indochina. But, the broader issue before the Senate and the Nation is the reassertion of the war powers of the Congress expressly reserved to it in article I, section 8 of the Constitution, as follows:

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years

Provide for the common defense  
To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water

To provide and maintain a navy

To make rules for the government and regulation of the land and naval forces

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions

To provide for organizing, arming and disciplining the militia and for governing such part of them as may be employed in the service of the United States.

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof

Once war is declared, the war powers of the Nation are shared by the Congress with the President. The Constitution gives the policy powers to the Congress and the executive powers to the President as Commander in Chief. But, in the mid-20th century the Congress has tended to default on the exercise of its policy powers in the warmaking field. At the same time during the last several decades, the energetic and imaginative exercise of the Commander in Chief's executive authority has created the illusion of a shift of the war powers from the Congress to the President. Legally the constitutional powers of the Congress and the President have not been, and cannot be, shifted in such fashion. Yet, an undeniable imbalance in the exercise of the respective war powers of the Congress and the President relating to war does presently exist in practice.

What needs urgently to be defined is how the Congress is to exercise its policymaking powers with respect to war which are explicitly reserved to it in the Constitution in consonance with the President's executive or command authority as Commander in Chief. The Constitution defines the executive capacity of the President to "take care that the laws be faithfully executed." The President certainly enjoys certain discretionary authority; but it is the discretionary authority of an executive. He does not have discretionary authority with respect to warmaking in a policy sense. This is a power granted to the Congress under the system of checks and balances in the Constitution.

In my judgment, the way for the Congress to proceed is to exercise its own countervailing policymaking powers related to the question of declaring war. Only when the question becomes one of limiting the President's exercise of his powers as Commander in Chief—as now in Vietnam and Cambodia—should the Congress act through its appropriations powers.

The nub of the issue before the Senate concerns the power of the President to initiate military hostilities by the Armed Forces of the United States in the absence of a declaration of war by Congress. This issue has been forced upon us by the Vietnam war and, more immediately, by the President's action in Cambodia.

The erosion, nearly to the point of atrophy, of the power of Congress to declare war was caused by a lack of ingenuity and imagination by the Congress in adapting the exercise of its declaration-of-war power to evolving historical circumstances.

History has demonstrated that there are situations in which military hostilities must be initiated by the Armed Forces in the absence of a declaration of war. Such cases arise in circumstances which require combat actions but which are not sufficiently serious—or in which contemporary conditions are undesirable—to enact a declaration of war. Moreover, it has long been recognized that there are circumstances in which there is not sufficient time—or room for movement—for a congressional declaration of war before military hostilities must be undertaken.

In the earliest days of the Republic, the United States became involved in military hostilities short of declared war—that is, the naval war against France in 1798-1800 and President Jefferson's actions against the Barbary Pirates beginning in 1801. In the Eliza case arising out of the undeclared naval war with France, the Supreme Court noted:

Hostilities may subsist between two nations, more confined in its nature and extent; being limited as to places, persons and things.

Throughout the 19th and early 20th centuries a body of precedents developed concerning limited hostilities in the absence of a congressional declaration of war. These were developed on an ad hoc basis, evolving essentially out of the case-by-case exercise of the discretionary executive authority of the President as Commander in Chief.

The Congress has done little or nothing to adapt its declaration-of-war power, or its other constitutionally specified war powers, to meet the circumstances which evolved from historical experience. However, our Presidents have shown great vigor and ingenuity in adapting and expanding the Commander in Chief powers to deal with undeclared war hostilities. The process of the abdication of congressional power and unilateral expansion of Presidential power in warmaking has now reached dangerous limits which could undermine the generally effective system of checks and balances underpinning our whole constitutional system of government.

It has reached the point where any effort simply to check the expansion of Presidential power is regarded by some defenders of the Presidency as an encroachment on the Office of the President. Many advocates of Presidential prerogative in the field of war and foreign policy seem at times to be arguing that the President's powers as Commander in Chief are what the President alone defines them to be.

What is most needed, is new legislation originating in the Congress which will codify the rules and procedures to be followed in circumstances where military hostilities may be initiated by the Commander in Chief in the absence of a congressional declaration of war.

I am introducing a bill today to accomplish this.

The constitutional duty and prerogative of the Congress to pass such a bill is inherent in its specified war powers in article 1, section 8, including the power to declare war, and is explicit in the

constitutional powers of Congress cited above.

The National Security Act of 1947 is a recent and comprehensive exercise of the constitutional responsibility of Congress "to provide for the common defense" and "to make rules for the Government and regulation of the land and naval forces." It is policy legislation analogous to the legislation I have introduced. In the purposes clause of that act the following statement appears:

In enacting this legislation, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security.

In addition to the comprehensive exercise of its policymaking war powers embodied in the National Security Act, there have been other instances of the congressional exercise of its war powers, other than by declaration of war. I wish to cite two such instances which—as with the National Security Act—have not been challenged, to my knowledge:

First. The Neutrality Act of 1935—Senate Joint Resolution 173, August 31, 1935:

Providing for the prohibition of the export of arms, ammunition and implements of war to belligerent countries; the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war.

Second. The Selective Service Act of 1940, which placed restrictions on the deployment of U.S. forces. Specifically, it stated:

(e) Persons inducted into the land forces of the United States under this Act shall not be employed beyond the limits of the Western Hemisphere except in the Territories and possessions of the United States including the Philippine Islands.

In summary, Congress has the authority, and the precedents, for asserting its powers to declare war—which must include the power to undeclare it—as specified in article I, section 8 of the Constitution. These powers of Congress are policymaking powers as to war; they are to be executed by the President as Commander in Chief. Historical circumstances are now such that the Congress must act to define its own powers under the Constitution.

Because the Congress has not, heretofore, established rules for the initiation or continuance of military hostilities by the Armed Forces in the absence of a declaration of war, it has fallen upon the Commander in Chief to exercise his Executive discretion on an ad hoc, case-by-case basis. This in its cumulative effect over the years, has led now to great confusion and dissension within the Nation, and has given rise to an anomalous and doubtful legal and constitutional situation in the eyes of millions of Americans.

I urge the Senate to correct this situation by enacting the legislation I have introduced today. It makes full provision for the initiation of military hostilities in the absence of declared war in the four categories which have evolved from historic practice. It gives full scope to the discretionary authority of the President in his executive capacity as Commander in Chief. But finally, and most important, this bill asserts congressional responsibility related to declaring war as enjoined by the Constitution and as expected and demanded by the Nation.

I introduce a bill, which requires signature by the President, to make rules respecting military hostilities in the absence of a declaration of war, and ask that it be appropriately referred; and I ask unanimous consent that it be printed in the RECORD.

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

The bill (S. 3964) to make rules respecting military hostilities in the absence of a declaration of war, introduced by Mr. JAVITS, was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

S. 3964

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That use of the Armed Forces of the United States in military hostilities in the absence of a declaration of war be governed by the following rules, to be executed by the President as Commander in Chief:

(a) The Armed Forces of the United States, under the President as Commander in Chief, may act—

(1) To repulse a sudden attack against the United States, its territories and possessions;

(2) To repulse an attack against the Armed Forces of the United States on the high seas or lawfully stationed on foreign territory;

(3) To protect the lives and property, as may be required, of United States nationals abroad;

(4) To comply with a national commitment resulting exclusively from affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment, where immediate military hostilities by the Armed Forces of the United States are required.

(b) The initiation of military hostilities under circumstances described in paragraph (a), in the absence of a declaration of war, shall be reported promptly to the Congress by the President as Commander in Chief, together with a full account of the circumstances under which such military hostilities were initiated.

(c) Such military hostilities, in the absence of a declaration of war, may not be sustained beyond thirty days from the day they were initiated, unless affirmative legislative action is taken by the Congress to sustain such actions beyond thirty days.

(d) Authorization to sustain military hostilities in the absence of a declaration of war, as specified in paragraph (a) of this section may be terminated prior to the thirty day period specified in paragraph (c) of this section by joint resolution of Congress.

SEC. 2. (a) Any bill or resolution, authorizing continuance of military hostilities under paragraph (c) (section 1) of this Act, or of

termination under paragraph (d) (section 1) shall, if sponsored or cosponsored by one-third of the Members of the House of Congress in which it originates, be considered reported to the floor of such House no later than one day following its introduction, unless the Members of such House otherwise determine by yeas and nays; and any such bill or resolution referred to a committee after having passed one House of Congress shall be considered reported from such committee within one day after it is referred to such committee, unless the Members of the House referring it to committee shall otherwise determine by yeas and nays.

(b) Any bill or resolution reported pursuant to subsection (a) of section 2 shall immediately become the pending business of the House to which it is reported, and shall be voted upon within three days after such report, unless such House shall otherwise determine by yeas and nays.

SEC. 3. This Act shall not apply to military hostilities already undertaken before the effective date of this Act.

Mr. JAVITS. Mr. President, under this measure, Congress would specify the four classic cases in which the President, for a limited period of time—and these are cases sanctioned by historical experience and by international practice—may use the Armed Forces of the United States in military hostilities in the absence of a declaration of war. They are as follows:

First. To repulse a sudden attack against the United States, its territories and possessions;

Second. To repulse an attack against the Armed Forces of the United States on the high seas or lawfully stationed on foreign territory;

Third. To protect the lives and property, as may be required, of U.S. nationals abroad;

Fourth. To comply with a national commitment affirmatively undertaken by Congress and the President.

Under my bill, even the 30-day period may be shortened by joint resolution of Congress.

Also, the bill contains provisions enabling action to take place in Congress within 30 days, and avoiding the danger of extended debate or filibuster characteristic of what we quite often do in the Senate.

The bill provides that such military hostilities, in the absence of a declaration of war, may not be sustained beyond 30 days from the day they were initiated, "unless affirmative legislative action is taken by the Congress to sustain such actions beyond 30 days."

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

Mr. JAVITS. I yield.

Mr. DOLE. I applaud the Senator from New York for his efforts to clarify an area which, in my opinion, has been largely responsible for the lengthy debate on the Church-Cooper resolution. The debate has indicated, if anything, that here is an area that needs clarification.

I have commented on the historical precedents as has the Senator from New York this morning. It appears to me that there are areas where the President has clear authority, and other areas where the role of Congress is clearly indicated; but there is this clear middle area to which the Senator from New York has addressed himself today, which needs the attention of Congress. I would hope that

the efforts of the Senator from New York will be welcomed by other Senators, by the other body, and by the executive branch.

Mr. JAVITS. Mr. President, I am grateful to my colleague. I read word for word what I considered to be a most impressive speech—though I disagreed with the Senator's conclusion on the Church-Cooper amendment—which he made on this subject on June 9, and in which he analyzed the precedents in an admirable way. The tremendous job of research and the very fair judgments the Senator from Kansas made were most helpful for me to consult in the final preparation of this bill.

For example, the Senator himself called the area in question "this most nebulous and ill-defined of all areas of the law," in reference to this particular situation. One of my assistants remarked that his speech might have been my own introductory speech for this bill.

I have intentionally omitted any reference in my bill to hostilities in Vietnam or Cambodia, for the following reasons: First, I did not wish in any way to short-circuit or divert attention from the resolutions which various of my colleagues have offered, including Church-Cooper, McGovern-Hatfield-Goodell, and my own and that of Senator MATHIAS to terminate the Gulf of Tonkin resolution.

Second, I have felt that this Vietnam-Cambodian war, under President Nixon, occupies what we lawyers call a sui generis legal position. It is a matter which is going to be determined on its own, without really establishing a precedent.

This is a situation in which we gave an authority similar to the one called for in my bill, if hostilities are to be continued beyond 30 days, in the Gulf of Tonkin resolution in 1964.

I agree with the Senator from Kansas that the idea that you have to have a declaration of war is out of date, and it brings into action too many aspects of other treaties, international law, and so forth, for the health of our country. War is not going to be fought that way. Moreover in some case there probably will not be enough time to do it that way.

When President Nixon came into office, he found an ongoing situation. If we expect him to liquidate that situation—and he says he is—then he has full executive capacity as Commander in Chief to do so.

I do believe that there should be a given point by which this should be accomplished—perhaps the Senator from Kansas and others do not agree. But, that is a question which will be determined in its own terms on the issue of the Vietnam war.

If we enact the legislation as proposed, it need not be the precedent for we will have a clear code and procedure for the future. Those of us who are on the Church-Cooper side and the McGovern-Hatfield-Goodell side argue that the only way we can deal with the President's power as Commander in Chief in respect of the ongoing Vietnam war is through the appropriations power. Everybody agrees—we agree; I agree, certainly—that this is an undesirable method, because you always could be up against the hard rock of denying sup-



port to the troops in the field by order of the Nation if you do it through an appropriations cutoff.

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

Mr. JAVITS. I ask unanimous consent that I may proceed for 3 additional minutes.

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

Mr. JAVITS. This is a real problem, and we are trying to deal with it. All the more reason for legislation of this character, as the capstone of the edifice we are seeking now to erect, which will house the warmaking powers of the President and Congress and make them consistent.

I would like to advance the view that, to me, one of the most desirable things that could result from our debates on the Vietnam war is a joint sharing by Congress and the President of the responsibility for its termination. Once we get out of Vietnam, events there may be of a character as to make us want to have a shared responsibility, rather than the President or we alone—although we hope and pray that will not happen—in terms of the national feeling of the people of the United States.

I am grateful to my colleague for his intercession, and I pay my tribute to the comprehensive analysis he made on June 9.

Mr. President, I wish to note the relevance of my bill to the various security treaties and mutual defense treaties, including the NATO Treaty, of the United States. Invariably, these treaties become operative and can be implemented by the use of armed force, according to "the constitutional process of the United States." I think that is practically an exact quotation.

By my bill, we will have settled the division of those constitutional processes. That is an internal matter. In my judgement, it has no negative relation to, or effect upon, the obligations undertaken by the United States to use military force in given situations subject to "constitutional processes." We would be defending the constitutional processes which are specified.

I am very hopeful that there will be an opportunity for hearings on this question before the Committee on Foreign Relations very shortly. The committee, about 10 days ago, adopted a resolution providing that the committee initiate an inquiry into the division of constitutional authority between Congress and the President respecting the military operations amounting to an exercise of the power to make war. Under that resolution, I feel that we have the full authority and will now move into the hearing stage of this matter.

Mr. President, I conclude as follows: It has been said, quite properly, that those who would not profit by experience are sentenced to relieve it. If there is one thing we should have been taught by the dissension we have endured and the division of our country and the terrible turmoil, division, and danger to our constitutional republic, it is the essentiality that Congress effectively exercise its war-

making power. It cannot avoid further the responsibility, as it has for 3 decades. Under my bill, the President and Congress would have to face it, and at the end of 30 days there would be no authority for the Commander in Chief to persist unless Congress acted de novo to sustain what he had initiated under one of the four categories specified.

I hope very much that scholars, some of whom I have already consulted, may apply their minds to this problem. This is a solution, perhaps not the solution. I hope very much that it will provoke thought and ultimate action on the part of Congress and the President.

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

Mr. JAVITS. I yield.

Mr. SPONG. First, Mr. President, I ask unanimous consent that the time of the Senator from New York be extended for an additional 3 minutes.

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

Mr. SPONG. I commend the Senator from New York for the introduction of this measure. I have not had the opportunity to examine the specifics of the proposed legislation, but I agree, particularly in view of the debate that has taken place in the last few weeks, that this is a subject to which Congress should address itself. I look forward to the hearings. I hope they will take place at an early date.

In the course of debate on the Cooper-Church amendment, I believe the distinguished Senator from North Carolina (Mr. ERVIN) has referred to law review articles on this subject which have been written in the past few years. The Senator from New York has consulted scholars. I hope the committee and those who will consider proposed legislation of this nature will have the benefit of the thoughts which have already been spelled out in two very distinguished articles of which I know, one in 81 *Harvard Law Review*—1968—and another in 55 *Virginia Law Review*.

Again I commend the Senator for the introduction of this measure.

Mr. JAVITS. I thank my colleague. I can assure him that every bit of research which can be done will be done and that every pertinent opinion will be advanced to Congress. I have circulated this document to deans of law schools, and I have opinions from some. I will welcome the participation of other Members, either in cosponsoring this bill, or in other ways, in order to bring this matter to a crystallized position. Certainly, it has now been demonstrated that there is no more urgent issue before us, in terms of dividing our country.

I think, too, that this would be a very healthy thing for the young people who are so deeply concerned about the American constitutional process. This is an effort to deal with that process in a creative way. I must pay my tribute to the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Vermont (Mr. AIKEN), and the other members of our committee who thought enough of the need for getting into this matter to determine that we would hold hearings quite soon about it.

I am very grateful to my colleague. Mr. DOLE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. DOLE. Because of the overriding importance of the subject matter contained in the bill introduced by the Senator from New York, and because of the urgency of some measure, or at least additional discussion, I would be pleased to join as a cosponsor of the bill.

I believe that every Member of the Senate shares the same objective—that is, to determine some way to more clearly define the President's powers vis-a-vis the powers of Congress. To me, the bill offered by the Senator from New York provides a vehicle, and it could be most helpful not only to Congress but also to the executive branch and, as the Senator from New York has said, to many others in America who have grave doubts and grave concerns and grave questions.

If it is satisfactory, I would be pleased to join the Senator as a cosponsor.

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

Mr. JAVITS. I ask unanimous consent that I may proceed for 1 additional minute.

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

Mr. JAVITS. The Senator flatters me greatly.

Mr. President, I ask unanimous consent that at the next printing of the bill the name of the Senator from Kansas be added as a cosponsor.

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

Mr. JAVITS. I also extend to any other Member an invitation to cosponsor. Very often I seek cosponsors. I did not in this case because, in the first instance, I wanted to be able to explain it and stand behind my explanations to the fullest extent. I thought it would be much less complicated that way, so that if Senators felt, because of the way I had explained it and after looking carefully at the thesis, that they wished to join as cosponsors, I would be very much pleased to have them. There always is the understanding that it would be cricket if cosponsors or others offered subsequently any perfections or modifications they felt they desired to.

I hope very much that we are really embarking upon a highly creative effort.

#### S. 3965—INTRODUCTION OF A BILL TO ESTABLISH A NATIONAL CONSUMERS' ADVISORY BOARD

##### INFLATION DISASTER OR EFFECTIVE ACTION

Mr. GORE. Mr. President, when the British Army under Cornwallis marched out to surrender at Yorktown, thus ending for all practical purposes the War of the American Revolution, the band played "The World Turned Upside Down." Truly, in that time of testing, whether one were British or American, Tory or Patriot, French or Indian, the world must have seemed topsy-turvy.

Today, the Nixon administration is busily engaged in turning our economic world upside down, threatening to destroy it. The Government itself, having

gained a pinnacle of utter confusion, either for want of understanding or for want of will to act, is busying itself in economic carnage.

Corrective action is imperative; action must be taken, and soon.

We are now in the grip of a most persistent inflation. The cost of living is at an historic high and continues upward. Consumer prices, as measured by the Department of Labor's index, have risen by about one-third since 1960. But the alarming aspect of this phenomenon is that, whereas during the first 8 years of the 1960's the price index went up by relatively small amounts each year—about 2 points on the average—that same index is now surging upward at the rate of some 8 points annually. From April 1969 to April 1970, the index went from 126.4 to 134.0. A glance at the wholesale price index shows the same frightening pattern.

Is it any wonder, then, that protests are heard from all segments of our society? Is it any wonder that millions of responsible salaried and wage-earning employees join in demanding increased incomes? The elderly and retired—all those on fixed incomes—have already been boa-constricted almost beyond the point of protest. The fears and frustrations of those requiring added income will hardly be allayed by experts' admonitions that increased wages add to inflationary pressures and are thus self-defeating.

Some have come to feel that a little inflation might be a good thing. At least, we have been willing to pay the price of a little inflation if it bought an expanding economy, full employment, a proper distribution of the fruits of our national production through appropriate wages and salaries, profits, interest income, and the like.

But what do we have under the present Nixonomic formula? We must pay the horrendous price of a runaway inflation. But even this is not buying a full employment economy, or a proper distribution of goods and services. In the upside down Nixonomic world, unemployment, prices, interest rates go up and up while profits, production, and real spendable income go down and down.

More than 4 million of our people are out of jobs, vainly looking for work. This is 5 percent of the labor force—and the situation is growing worse. Yet, Mr. President, President Nixon but alternately wrings and sits on his hands.

Factory production is falling monthly, and is now some 3 points below last year's level. We are losing \$45 billion per year in production of goods and services badly needed for housing and health, for cleaning up our environment.

Yet, Mr. President, the disciplines of laissez-faire government do nothing but talk about rounding another corner. The only visible signs of increased activity are in the money markets. Here the fruits of the hands-off policy is disaster. Interest rates are already so high they are stagnating all credit-based economic operations except for some big businesses having ready access to such funds as are available. Our credit-based economy cannot stand this very much longer without suffering a collapse.

The only agency in our entire Nation equipped to act in this emergency to put things to rights is the Federal Government, but the head of our Government, President Nixon, has adopted policies essentially passive and negative. The only activist element in his policies is directed toward efforts to deepen the recession in which we now, unhappily, find ourselves. President Nixon, taking the advice of out-of-date theorists, has diagnosed our malady as calling for malnutrition to make the economy become robust. It is like prescribing a principle of 19th century medicine to go with 19th century Republican economics—fasten the leeches of high interest rates to the economic body, and when the economy has thus been bled white economic health will somehow, and most miraculously, be restored. This medical procedure was abandoned long ago, but this typifies the antedated economics with which we are plagued.

Mr. President, today and for the succeeding 3 days this week I shall address the Senate on various aspects of our sick economy and the sorry job the Nixon administration has done and the urgent need for action.

Today I shall emphasize inflation, its effects, causes, and cures. Today I shall advance one specific proposal to do something about inflation—something which would reinforce presidential leadership, assuming that this essential leadership will eventually materialize, and something which can partially make up for that presidential leadership we are not now getting, the moral suasion which is not being used, the prestige of the Presidency which ought to be, which is not being, placed on the line.

I have spoken many times on the state of our economy. And I have tried to take a balanced view. I have disagreed with some specific actions—or inactions—when the White House was occupied by a Democrat as when a Republican happened to be there.

I do not in any way seek to minimize the difficulties inherited by President Nixon. But, Mr. President, inheritance of problems is no excuse for inaction. The world turns, and action to correct imbalances must be taken daily. President Nixon has not acted to correct those problems he inherited—he has only created more problems. Indeed, inaction creates doubt when confidence is badly needed.

The Government of the United States must have definite economic objectives. I think these can fairly be stated.

First, a rate of economic growth sufficient to meet the requirements of national security and to provide full employment for our people.

Second, the maximum practicable degree of price stabilization and overall inflation control.

Third, efficient and equitable distribution of goods, income, and wealth.

These goals can be achieved, but not without careful planning and determined action. Some out-of-date politicians still prate against planned economy. We must plan and act for the achievement, for the achievement not of just one, but of all these goals. Too much emphasis on one will unbalance,

rather than balance, the economy; will tend to defeat, rather than achieve, the necessary goals.

Control of inflation is one of our necessary goals—but only one. It requires immediate attention and action, but not that which will obscure the others and tend to defeat them or create more imbalance and hardship.

During the sometimes dreary days of the Eisenhower administration, some seemed obsessed with the idea that if we could but contain inflation, through tight money and higher interest rates for the most part, all other economic objectives would automatically fall into place. We saw that this did not work. We suffered repeated recessions and economic growth was retarded. Little progress was made—in fact, I think there was retrogression—in improving equitable distribution of income and wealth. Senators will recall the reliance placed on tight money and high interest rates in those days.

President Nixon has served up the slightly warmed leftovers from those George Humphrey recipes that were far outdated even in the 1950's.

Proper fiscal policies is one proper means of fighting inflation. But there is no effort in this direction. After a brief propaganda barrage, it is now being freely admitted that we face large and persistent budget deficits.

A big increase in the national debt ceiling has been requested. There is little hope of doing better in this area until the freebooting expedition into Indochina, formerly referred to as the war in Vietnam, is terminated.

Inflation can be fought by proper monetary policies. There have been times when we have suffered from excess demand, and a too rapid rate of growth in the money supply served to worsen inflation and to validate price increases, but this is not the situation today. There is no excess demand. Indeed, industry is operating far below optimum capacity. Yet our Government still acts as if we were in an economy of shortages of goods and excess of money and credit. How upside-down a national administration can become.

Inflation can be countered by standards or regulations on wages and prices, either voluntary or mandatory, and by commodity allocations or credit. But nothing has been done in this regard.

I wonder, Mr. President, how long it is going to take our Government to realize that we are in a wartime economic condition, albeit a small war, but one that has been prolonged and expanded into the longest war in our history.

The Congress has understood this situation pretty well, I think, and has reacted to it pretty well—as well as Congress is likely to react to any complex condition when it is not only without Presidential leadership and guidance, but even faced with Presidential hostility. The Congress has voted the President the authority to impose a broad range of credit controls. The President has ignored this. I shall have more to say about this aspect of economic problem-solving later in the week.

Without going into a complicated economic analysis of our current condition,

it seems clear to me—and most experts now seem to agree—that we are in a cost-push type of inflation. Clearly, there is no excess demand. There is demand, all right, for housing, for public facilities, for clean air and water, for more of the amenities of life. But these demands are not now pressing hard against our capacity to meet them—in some instances simply because we refuse to act, continuing to ignore the problems, in others for want of money or credit. Be that as it may, the traditional demand-pull inflationary conditions do not exist and are not likely to exist for some time.

But we do, very definitely, have a serious cost-push inflation. With rising costs and falling production, industry leaders want to keep up their profits and, if possible, push them to higher and higher levels. This means pushing up prices for goods. And, in defiance of the rules of what we often call a free enterprise economy, this can be done in many sectors of our economy. In all too many economic sectors, conditions of monopoly or oligopoly—big threes and big fours—operate to allow price fixing and quality skimping. Competitive pricing, the traditional regulator of a free enterprise system, does not function. Rather, we find cooperative pricing.

Wages will not lag behind. Industry-wide, nationwide bargaining by strong unions places a constantly rising floor under wage rates for all types of employment. Purchasing power will not be allowed to lag. Wages, under today's conditions, will continue to rise.

And the cost of services is a leader, not a lagger, in this self-defeating scramble.

The push upward must be slowed and halted on all fronts simultaneously. Only Government action can do this.

Now, Mr. President, having allowed our economy to get in this situation, Government must join with other responsible elements—indeed, must take the lead—in getting us out.

Fiscal restraints are not in prospect. Monetary restraints have been and are being applied, but alone they have and are exacerbating an already bad condition. It is time, then, to admit frankly that pricing actions in industry and in labor are not subject to the ordinary restraints traditionally brought to bear in a free enterprise economy by fiscal and monetary policies.

Hand wringing and partisan name-calling will not serve our purposes. Neither will criticizing Congress for not acting on recommendations that have not been submitted.

Our situation may not yet be so desperate that our people would support direct and positive controls over a long period of time, particularly when there is no clear and present sense of emergency, or even a manifestation of interest in equality of sacrifice for a war effort.

Parenthetically, I might say that I have not shrunk from advocating full controls when that seemed appropriate, and they could now become appropriate if vigorous action is not taken through milder mechanisms. In 1940, as World War II was clearly approaching and the country was gearing up for it, mobilizing industry

and manpower, I sponsored the original Baruch plan. But Congress and the President procrastinated, and controls were not finally adopted until about 2 years later, by which time some 25 percent of the purchasing power of the dollar had been already eroded.

Now, given current public and official attitudes, what I have in mind today is something of a half-way house toward regulation. What I shall propose in a few minutes is machinery for mobilizing public opinion and for bringing public pressure to bear in an effort to stabilize prices. This will require effective presidential leadership. This has been the missing factor along with misguided policies.

What I shall propose might not be necessary if we had proper presidential leadership. But, I might also add, what I shall propose will be an invaluable asset to any President who does want to use the powers of his office in the exercise of responsible leadership to bring about price stabilization. I have been reading about a Presidential message on our economic plight for weeks. Perhaps there is room for hope that a reassessment and action will yet come.

I am convinced that American corporate leadership and the leaders of our great unions are responsible men and women, and that they will, and do, respond affirmatively to public demand for restraints in pricing and in the setting of wages. It has become fashionable at the White House to decry the "jawboning" efforts of recent past presidents, but such derisive comments are but poor excuses for the failure to use the moral and political influence of the office of President.

Dr. Arthur F. Burns, appointed as head of the Federal Reserve System by President Nixon, and Secretary George Romney, and others, have recently come around to urging the adoption of some kind of voluntary wage and price controls. Business leaders, labor leaders, economic authorities, and just plain people cry out for leadership.

Voluntary controls, presidential "jawboning," public pressure, do have some effect, particularly in the short run. Every President ought to involve himself in this process—a most important part of the process of governing, of the practical exercise of leadership. What I shall now propose will help the President to do this. Should the President persist in his refusal to recognize, and to take action in pursuit of, the public interest, my proposal will at least partially fill this vacuum in leadership.

Mr. President, I send to the desk a bill that provides for the establishment of a National Consumers Advisory Board, together with regional boards. These boards are not strictly governmental organizations, but quasi-governmental in nature. These boards would serve two functions: First, they would be factfinding groups, gathering information on prices, profits, and wages in order that the public might know exactly what is going on. Facts, once gathered, would be broadly disseminated to assist in public opinion formulation. Second, these boards would be able

to give effective voice to public opinion with respect to prices and wages. Being quasi-governmental in nature, partisan politics would be kept out of the work of these boards. They would be heard and heeded by management and labor.

These boards should be composed of representatives of the press, big and small business, labor organizations, academic institutions, religious groups, welfare and service organizations, and the like. The boards would be permanently organized, with a staff and secretariat paid out of Government funds, but the boards themselves would not be subject to control by the President or anyone else in the executive branch. The national Board, however, would report to the President on a regular basis.

Local or regional problems could best be handled by the regional board. But when a national problem arises, such as price setting for an important industry—the annually announced prices for new automobiles, for example—the National Board should swing into action, gather pertinent information, alert the public to unnecessary or exorbitant price increases, and bring the pressure of organized public opinion to bear on the industry.

When industrywide labor contracts are to be negotiated, the Board should be in a position to represent the public interest by, again, getting together all pertinent data and bringing pressure to bear on the union leaders concerned, and on the corporate leaders, in order that the public interest may be served.

Local or regional problems could best be considered by the regional boards. And the National Board should always be in touch with the regional boards on anticipated local effects and sentiment. A major function of all these boards would be, of course, to disseminate their views and findings to the public in order to mobilize public support for reasonable pricing and wage policies.

Since the activities of the national board would cut across many departmental lines, it should report directly to the President. Upon its recommendations, the President would, hopefully, use his influence to persuade those threatening to exceed reasonable limits in their policies or demands to fall into line. The President could well use findings of the board to buttress an appeal for restraint. The formal and institutionalized support of an alerted and informed public would, I believe, do much to promote the success of efforts of the President to hold down inflation to manageable proportions.

And if the President does not show an inclination to take action, as is today unfortunately the case, the work of these boards would be even more important. Their work in the public interest would have to be substituted for the leadership the President ought to be, but is not, giving.

Of course, public opinion not backed up by the power—or the likelihood—of positive action might be ignored. But there are action tools available. There are the antitrust laws. There are Government funds to be dispensed or withheld,

contracts to be let, purchases to be negotiated. The Government is by no means helpless. It is more often the will which is lacking.

But I do feel very strongly that this additional tool, these boards provided by my bill, could maximize the influence of public opinion, regularize and institutionalize it for the protection of the public in pricing and in wage setting.

If something like this will work—and I think it will—we may avoid the necessity, or make less frequent the need, for more direct or mandatory governmental action. What I propose is a half-way house between price and wage fixing by the Federal Government, and allowing industry leaders a continuing free hand in pushing inflation to even more dangerous levels.

This compromise will not please the devotees of the free market as visualized by Adam Smith. But, as a matter of fact, such a market does not now exist, and perhaps has never existed. We have long had a mixed economy. Government regulation of tariffs, transportation, and utility rates, minimum wage laws and farm price supports, for instance, already interfere with a so-called free market economy. So do nongovernmental actions such as arbitrary price-fixing by industry leaders.

Indeed, there has never been a time in the entire history of the Western world when the so-called free market actually operated as visualized by neo-Adam Smiths. There have always been public restraints operating through governmental as well as through non-governmental agencies of society on prices and pricing policies, and I am constantly amazed at the large numbers of economists who do not seem to understand this.

But my proposal stops far short of any authoritarian approach which would substitute governmental decisions for the decisions of others in all aspects of our economic life. This is surely not wanted by most Americans.

Other countries sharing our general political and social philosophy have tried out procedures somewhat similar to what I am now suggesting, and they have often worked well. We are a pragmatic people, and I think we can work this thing out. I do not think we must choose between runaway inflation, on the one hand, and strict government controls, on the other. But if we do not come up with some way to safeguard the public interest and curb private self-interest, we may soon be forced to choose between two alternative extremes, neither of which we truly want.

I hope serious consideration will be given by Congress to inflation control, for it appears we will get little leadership from the White House. Our economy is not now serving the public at maximum efficiency, and this should be corrected.

On tomorrow, Mr. President, I shall again address the Senate on our economic problems, with particular emphasis on tax policy.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

The ACTING PRESIDENT pro tempore (Mr. SPONGE). The bill will be re-

ceived and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 3965) to provide for the establishment of a National Consumers Advisory Board, and for other purposes, introduced by Mr. GORE, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the Record, as follows:

#### S. 3965

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Consumers Advisory Board Act."*

#### DECLARATION OF POLICY

SEC. 2. The Congress declares that it is the continuing policy and responsibility of the Federal Government to use all practicable means to insure that consumers are charged fair and equitable prices for goods and services. To this end, the public should be informed as fully as possible of the factors, including wages, materials costs, management fees, cost of capital, and profits which contribute to the price structure so that the weight of public opinion may be mobilized and focused on actions of management and labor which threaten to promote price or wage inequities.

#### ESTABLISHMENT OF BOARDS

SEC. 3. There is hereby established a National Consumers Advisory Board (hereinafter referred to as the "National Board"), and a Regional Consumers Advisory Board (hereinafter referred to as a "regional board") for each of the regions referred to in section 8.

#### FUNCTION OF BOARDS

SEC. 4. Whenever there occurs or threatens to occur, in any industry engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, a general adjustment in the price of any product or service or a general adjustment of wage rates (or a labor dispute with respect to any such adjustment of rates), and such adjustment of prices or wages materially affects the entire industry or a substantial part thereof, the National Board (or, in the case of any such adjustment or dispute the effects of which are confined principally to one of the regions referred to in section 8, the regional board for that region) shall hold hearings, make and publish reports, and take other appropriate action to collect and disseminate such information and data concerning the adjustment or dispute as may be necessary to provide a sound basis for informed public opinion with respect thereto.

#### MEMBERSHIP OF BOARDS

SEC. 5. (a) The National Board and each regional board shall consist of at least twenty-five but not more than thirty members, to be appointed by the President. The membership of each such board shall include representatives of the press, big and small business, labor, education, religious groups, welfare and service organizations, and other major segments of the economy, and shall be so selected as to give equitable representation to the various geographic areas within the area served by such board. Members of any such board shall be appointed for terms of six years except that, of the members first appointed, the terms of approximately one-third shall expire at the end of two years and the terms of approximately one-third shall expire at the end of four years, and a member appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed only for the remainder of such term.

(b) The National Board and each regional

board shall select a chairman and a vice chairman from among its members.

(c) Fifteen members of the National Board or of any regional board shall constitute a quorum of such board, but a lesser number may conduct hearings.

(d) Service of an individual as a member of the National Board or of a regional board shall not be considered as service or employment bringing such individual within the provisions of section 281, 283, 284, 434, or 1914 of title 18 of the United States Code, or section 190 of the Revised Statutes (5 U.S.C. 99).

#### COMPENSATION AND EXPENSES OF MEMBERS

SEC. 6. (a) Each member of the National Board and each member of a regional board will receive \$100 per diem when engaged in the performance of duties as such member.

(b) All such members shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

#### STAFF OF BOARDS

SEC. 7. (a) The National Board and each regional board may employ and fix the compensation of such employees as it deems necessary to enable it to perform its functions.

(b) The National Board and each regional board is authorized, without regard to the civil service laws and the Classification Act of 1949, to procure temporary and intermittent services to the same extent as is authorized for the departments by section 15 of the Act of August 2, 1946, but at rates not to exceed \$50 per diem for individuals.

(c) The National Board and each regional board is authorized to negotiate and enter into contracts with private organizations to carry out such studies and to prepare such reports as such board deems necessary to enable it to carry out its functions.

#### DEFINITION OF REGIONS

SEC. 8. There shall be a regional board for each of the six major geographic areas of the United States, the boundaries of which shall be specifically defined by the National Board but which shall consist in general of the northeast, southeast, north central, south central, northwest, and southwest areas of the United States.

#### HEADQUARTERS OF BOARDS

SEC. 9. The headquarters of the National Board shall be in the District of Columbia. The headquarters of a regional board shall be at such place within the area served by it as it shall determine.

#### POWERS OF BOARDS

SEC. 10. (a) The National Board and each regional board is authorized, for the purpose of carrying out its functions—

(1) to hold such hearings and to sit and act at such times and places within the area served by it as it deems necessary;

(2) to secure directly from any department or agency of the Government any information, suggestions, estimates, or other data in the possession of such department or agency (other than information or data the release of which, in the opinion of the head of such department or agency, is inconsistent with the national interest or security); and

(3) to procure such office space, supplies and equipment, printing and binding, and to incur such other administrative expenses as may be necessary.

(b) Each such board shall meet at least once each calendar quarter, and at such other times as may be necessary upon call of its chairman, or upon request of at least one-third of its members.

#### ANNUAL REPORTS

SEC. 11. The National Board and each regional board shall submit to the President from time to time such interim reports of its activities as may be desirable and, as of

the end of each calendar year, a full and complete report of its activities during such calendar year.

APPROPRIATIONS

SEC. 12. There are hereby authorized to be appropriated such amounts as may be necessary to carry out the provisions of this Act.

S. 3967—INTRODUCTION OF BILL TO AMEND THE TENNESSEE VALLEY ACT OF 1933, AS AMENDED

Mr. BAKER. Mr. President, on behalf of myself, and the Senator from Alabama (Mr. ALLEN), the Senator from Kentucky (Mr. COOK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS), I introduce, for appropriate reference, a bill to amend the Tennessee Valley Act of 1933, as amended.

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

The bill (S. 3967) to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority, introduced by Mr. BAKER (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Public Works.

Mr. BAKER. Mr. President, as every Member of this Senate knows, the Tennessee Valley Authority has been responsible for promoting extraordinary economic growth in the eight-State region that it serves. Created in 1933 in the depths of the great depression, TVA has served as the principal catalyst for growth and progress in an area that had little hope at that time. One of the principal reasons for this success has been the broad mandate given by the Congress to TVA. Although there were many who bitterly challenged the authority given to TVA by the Congress in 1933, it is entirely clear in retrospect that nothing short of this mandate would have been sufficient to deal with problems of such magnitude.

In 1959 the essential autonomy of TVA was strengthened by the Congress when the agency was given self-financing or borrowing authority for its power program. Because TVA is specifically charged with the responsibility of anticipating and meeting the rapidly growing power needs of the eight-State region, this self-financing authority granted by the Congress in 1959 gave the agency the kind of flexibility that is essential for it to fulfill its statutory responsibilities. Because of the very great leadtime required in constructing power-generating facilities that will be needed years later to meet the anticipated need, self-financing has proved to be far more efficient and flexible than the previous condition of annual appropriations by the Congress. The self-financing provision has also been a great benefit to the taxpayer, because section 15d of the act provides that TVA shall make an annual payment out of power revenues into the Treasury. These payments include two amounts, one a repayment of the principal amount

of the original appropriated investment in the power facilities of TVA, which as of June 30, 1969, totaled \$110,000,000, and a return on the unpaid principal, which as of the same date totaled \$390,597,000. This represents a total payment into the general fund of more than \$500,000,000 since fiscal 1961.

The purpose of the amendment that I introduce today is to increase the authorized ceiling on TVA borrowings from \$1.75 billion to \$5 billion. There is some disagreement about whether an increase of this magnitude is necessary. Based on the information that I have studied, I believe that the \$5 billion figure is wholly justified. But I am sure that the committee to which this legislation is referred will make a careful and independent judgment of the facts.

The financing of the power facilities already under construction or authorized for construction will exhaust the presently authorized \$1.75 billion of borrowings TVA is permitted to have outstanding. The total generating capacity of the system will then approach 30 million kilowatts.

Growth in electric loads in the Nation have been requiring a doubling of capacity each 10 years. The load growth of the farms, homes, institutions, businesses and industries in the TVA region has been exceeding that in the Nation. The load growth in the TVA region is expected to require at least a doubling of capacity in the coming 10 years. Thus, in this decade 30 million kilowatts of additional capacity will need to be started or authorized.

Depending upon the future rate of inflation, revenues available for reinvestment, and other factors, it is now expected that this 30 million kilowatts of additional capacity will require total additional borrowings of \$5 billion—based on a cost of \$170 per kilowatt of generating capacity—to \$8 billion—based on \$250 per kilowatt. The \$3.25 billion of proposed additional borrowing authority is therefore expected to be sufficient for the next 4 to 6 years.

Mr. President, there is increasing concern throughout the Nation about the possibility of brownouts and even blackouts in some areas this summer. Such concern exists in the Tennessee Valley area. Because the Congress exercises absolute control over the capacity of the Tennessee Valley Authority to meet the needs of the region, it seems to me that the Congress must bear any responsibility for inadequate power in the region in the years ahead, if TVA is not permitted to borrow funds sufficient to the needs of the region. Because of the leadtime required in planning a construction program, the time factor is quite important. I hope that both Houses of the Congress will act expeditiously on this necessary legislation.

ADDITIONAL COSPONSORS OF BILLS

S. 3786

Mr. KENNEDY. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Michigan (Mr. HARR) be added as a cosponsor of S. 3786, to amend title VII of

the Housing and Urban Development Act of 1965 to authorize financial assistance for the development and improvement of street lighting facilities.

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

S. 3941

Mr. HANSEN. Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCHWEIKER), I ask unanimous consent that, at the next printing, the name of the Senator from Oregon (Mr. HATFIELD) be added as a cosponsor of S. 3941, to provide civil penalties for the use of lead-based paint in certain dwellings.

The ACTING PRESIDENT pro tempore (Mr. SPONG). Without objection, it is so ordered.

Mr. HANSEN. Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCHWEIKER), I ask unanimous consent that, at the next printing, the name of the Senator from Hawaii (Mr. INOUE) be added as a cosponsor of Senate bill 3941, supra.

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

SENATE RESOLUTION 418—SUBMISSION OF A RESOLUTION RELATING TO BAILOUT GRANTS AND LOANS BY THE GOVERNMENT TO MAJOR INDUSTRIES

Mr. PROXMIRE. Mr. President, last Wednesday it was announced that the administration plans to have the Pentagon, under the authority of the Defense Production Act of 1950, guarantee loans of as much as \$200 million to the Penn Central Railroad Co. in an attempt to rescue that company from the consequences of its financial mismanagement. This action, coming as it does on the heels of a similar proposal for bailing out the Lockheed Corp., raises fundamental questions of public policy which need to be fully and frankly faced. Is it the responsibility of the Federal Government to bail out every company which encounters a financial crisis? Obviously it is not. Where then do we draw the line between the favored and the neglected? A second fundamental question is: If there are occasions on which it truly is in the public interest for the Government to lend assistance to a private firm, what form should this assistance take? Are we going to make the Defense Department the vehicle for every action, no matter how peripheral the contribution of the firm to our national defense? Does the Defense Department not already have burdens enough without saddling it with the additional major task of attempting to preserve our industrial structure?

The American economy is, of course, going through an extremely difficult period. We are, to put it bluntly, in a recession—a recession accompanied by continued inflation. Mismanaged companies which could squeeze by in a period of full prosperity find life much more difficult in the present situation. The unfortunate truth is that we are going to see other major companies facing financial crises before the year is out. We need to address heads on the question of appro-

appropriate public policy to deal with these situations. Surely we can find a better public policy than selective bailout for favored firms. Why should the taxpayer be called upon to underwrite the bad business judgment of some of our industrial magnates? Even more fundamentally, what will a policy of bailout do to the market discipline which is the great strength of our economy's private sector?

It is true that the difficulties our private sector faces today are to some extent the result of faulty government policies of the past. Our defense procurement policies have permitted firms to become dependent on generous government contracts and to ignore competitiveness in commercial markets as the fundamental basis of survival. This is the problem with Lockheed. A major cause of Lockheed's financial difficulties is its failure to produce a marketable commercial aircraft.

Our Federal policy on corporate mergers has also been faulty. The merger of the Pennsylvania Railroad and the New York Central in 1968 was approved because it was hoped to put these railroads on a more secure financial footing. Obviously it has not turned out that way. We need to go back and examine what went wrong, but this does not mean that we need to underwrite failure. It does not mean that we need to saddle the Defense Department with responsibility for preserving private business. And it does not mean that we have to rely on the outmoded emergency legislation of 1950 to meet the problems of 1970.

At the same time that our procurement policies and our antitrust policies have created problems for the private sector, our overall economic policy has been badly deficient. Despite the mounting evidence that an economic slowdown would not by itself, provide the cure for inflation, the slowdown was allowed to continue, to become a recession. Supplementary policies which might have prevented this situation—price and incomes policy; policies to correct the structural defects in our economy; policies to mitigate the distress caused by unemployment—have been inadequate or nonexistent. The best assistance we can give to corporations in trouble is to correct our general economic policy; to strengthen our efforts to achieve full employment and price stability.

I submit today a Senate resolution calling for Congress to impose strict limits for bailout grants and loans to major businesses. Henceforth in my view Congress should not provide for grants, loans, or guaranteed loans to bail out private firms from the consequences of their decisions or financial mistakes, until systematic procedures have been established, outside the Defense Department, by which such requests can be examined.

My resolution rises out of the recent request by Lockheed Aircraft for \$641 million in Defense Department grants and the Penn Central Co.'s request for a \$200 million guaranteed loan.

The procedures under which bailout grants, loans, and guaranteed loans are made are now highly informal, lacking in objective standards, and without sys-

tematic or evenhanded rules and regulations.

The recent request by Lockheed and the understanding reached by the Defense Department and Penn Central Co., illustrate the weaknesses in existing procedures. I believe that the bailout of firms from the consequences of their private decisions or financial mistakes should not be made until Congress has:

First, defined the public purposes to be served;

Second, outlined the specific circumstances when such actions are justified;

Third, established the criteria by which the requests can be judged;

Fourth, erected machinery outside the Department of Defense through which such requests can be processed; and

Fifth, provided a specific time limit for full and public concurrence by Congress before action can be put into effect.

I want to stress that I believe this resolution is necessary because the recent requests have the effect of establishing precedents for future action which are not in the best interests of the taxpayers or the economy of the United States. The individual American taxpayer receives no direct profits, benefits, dividends or rewards from the successes of American industry, but is now asked to pay directly for the mistakes or failures of private management through huge bailout grants, loans, and loan guarantees.

Except in rare instances the problems of business loans liquidity, and financial arrangements for American business properly belong to the private sector to solve. Even when some overriding public interest requires action, jurisdiction should not rest with the military departments. In the interests of preserving political democracy and subordinating the military to civilian control, such issues should be under the jurisdiction of those agencies which deal primarily with financial matters.

It is imperative that we reform present practices and establish safeguards for the American public.

In the case of the Penn Central Co. guarantee, the company has recently involved itself in real estate ventures. Some \$35 million is involved in the Great Southcoast Corp., a realty subsidiary. The Associated Press quoted one of its directors as saying:

There were places where we could have gotten 300 percent on our investment if we had modernized facilities.

How can we justify putting hundreds of millions of dollars, under the guise of helping defense, into a company that is deliberately diversifying into industries not related to defense? In that situation, the Government is going into competition with its own taxpayers.

Yet the Penn Central loan guarantee was apparently agreed to without the proper or formal consideration given to such questions. My resolution calls upon the Congress to establish evenhanded procedures before such actions are taken in the future.

The ACTING PRESIDENT pro tempore (Mr. Spence). The resolution will be received and appropriately referred.

The resolution (S. Res. 418), which

reads as follows, was referred to the Committee on Banking and Currency:

S. RES. 418

Resolution relating to the provision of grants, loans, and guaranteed loans to private institutions for the purpose of relieving them from their financial problems.

Whereas the United States is proud of its tradition of competitive business institutions and its free enterprise system; and

Whereas the freedom of the system makes it possible for investors and managers to receive great monetary benefits, profits, and rewards; and

Whereas the prospects of failure, bankruptcy, and receivership place a proper restraining influence on bad judgment and inefficiency and act as an effective discipline for husbanding and preserving the capital of investors; and

Whereas a number of major American business firms have sought from the United States Government either direct grants, for which the U.S. Government has no contractual obligation, or guaranteed loans under provisions of the laws only tangentially relevant to the immediate problems of the firms; and

Whereas these practices have the effect of establishing precedents for future action which are not in the best interests of the taxpayers and the economy of the United States; and

Whereas the Defense Production Act was established for the primary purpose of stimulating the establishment or expansion of industry for the production of vitally needed products to meet the specific needs of defense procurement programs; and

Whereas the intent of the Defense Production Act was not to establish a bail-out procedure to rescue firms from the consequences of their own ineptitude; and

Whereas the Defense Production Act was not intended to apply to firms who have no direct relationship to defense production, or whose relationship to defense production is only marginal or secondary, or whose relationship can be defined primarily only in the general sense that in any national emergency the productive and transportation facilities of the United States are related to the national defense; and

Whereas except in rare instances or very special circumstances the problems of business loans, liquidity, and financial arrangements for American business properly belong to the private sector of the economy to solve; and

Whereas even in those rare instances where some overriding public interest, such as the prevention of financial panic, requires that Government action be considered, such questions should be under the jurisdiction of those institutions or agencies of the Government which deal primarily with financial matters rather than the military or other departments whose powers over these matters should be limited and restricted, among other reasons, on the traditional grounds that it is necessary to preserve political democracy and subordinate the military to civilian control; and

Whereas the individual taxpayer receives no direct profits, benefits, dividends, or rewards from the successes of American industry, but is asked to pay directly for the mistakes or failures of private management through grants, loans, or loan guarantees; and

Whereas the procedures under which bailout grants, loans, or guaranteed loans are made are highly informal, lacking in objective standards, and without systematic or even-handed rules and regulations; and

Whereas the recent request by Lockheed Aircraft Corporation for \$641 million and the understanding reached by the Defense Department and the Penn-Central Company for the Government to guarantee a \$200 mil-

tion loan under the authority of the Defense Production Act illustrate and epitomize many of the objections and weaknesses in existing procedures and practices as outlined above:

Now, therefore, be it resolved, That it is hereby declared to be the sense of the Senate that henceforth the Federal Government shall not provide grants, loans, or guaranteed loans for the purpose of bailing-out private firms from the consequences of their decisions or financial mistakes until Congress has 1) defined the public purposes to be served by such action, 2) outlined the specific circumstances in which emergency loans or grants to private businesses are justified, 3) established the criteria by which they are to be evaluated and judged, 4) erected the machinery outside the Defense Department through which such requests can be systematically processed, and 5) provide a specific and limited period of time during which there must be full and public concurrence by the Congress before the action can be put into effect.

**NOTICE OF MOTION TO SUSPEND THE RULE—AMENDMENT TO SECOND SUPPLEMENTAL APPROPRIATIONS BILL, 1970**

AMENDMENT NO. 699

Mr. JAVITS. Mr. President, on June 2, 1970, I submitted with 15 cosponsors an amendment to H.R. 17399, the supplemental appropriations bill, to provide a total of \$100 million for the Neighborhood Youth Corps summer job program for this summer.

On June 8, 1970, the Appropriations Committee recommended a supplemental for that program in the amount of \$50 million. The report indicated that \$35 million would be used to provide jobs and that \$15 million would be used for recreational programs.

Since it was not clear as to the extent to which the \$15 million would provide jobs, I submitted, on June 11, amendment No. 693, under which the \$50 million amount recommended by the committee would be increased to \$115 million.

In light of suggestions that the proposed amendment could be subject to question under subparagraph 1 of rule XVI, I filed also on that day, a notice of motion to suspend subparagraph 1 of that rule in respect to the proposed amendment.

Mr. President, it remains unclear at this moment as to the number of jobs that might be funded under the \$15 million portion of the committee recommendation.

Accordingly, I submit today an additional amendment to increase the supplemental appropriation from \$50 million to \$100 million, which amendment I shall introduce in the event that information is provided indicating that \$15 million designated for recreational programs will also provide a sufficient number of job opportunities. In the event that it appears that a sufficient number of jobs will not be provided out of the recreational funds, then I intend to introduce amendment No. 693, which would increase the amount of the supplemental for summer jobs from \$50 million to \$115 million.

I submit also a notice of motion to suspend paragraph 1 of rule XVI as to the amendment which I have submitted today:

CXVI—1240—Part 15

**NOTICE OF MOTION TO SUSPEND RULES**  
Pursuant to the provisions of Rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to suspend Paragraph 1 of Rule XVI, for the purpose of proposing to the bill (H.R. 17399) an Act making supplemental appropriations for the fiscal year ending June 30, 1970, and for other purposes, the following amendment, viz, on page 12, line 8, strike out "\$50,000,000" and insert in lieu thereof "\$100,000,000".

The ACTING PRESIDENT pro tempore (Mr. SPONG). The amendment will be received and printed, and will lie on the table.

(For amendment referred to, see the foregoing notice.)

**ADDITIONAL COSPONSOR OF AN AMENDMENT**

AMENDMENT NO. 656

Mr. HANSEN. Mr. President, on behalf of the Senator from New Jersey (Mr. CASE), I ask unanimous consent that, at the next printing, the name of the Senator from New Mexico (Mr. MONTOYA) be added as a cosponsor of the amendment (No. 656) to add \$28,050,000 to H.R. 16916, making appropriations for the Office of Education for construction of facilities at 4-year institutions of higher education.

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

**RESULTS OF THE CAMBODIAN SANCTUARY OPERATIONS**

Mr. HANSEN. Mr. President, I ask unanimous consent that a summary of the results of the Cambodian sanctuary operations, reflecting changes over the last 4 days, be printed in the RECORD.

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

JUNE 15, 1970

Total operations	Number	4-day change
Individual weapons.....	17,721	+1,620
Crew-served weapons.....	2,330	+61
Bunkers/structures destroyed.....	9,868	+510
Machinegun rounds.....	3,984,210	+40,563
Rifle rounds.....	9,303,263	+684,060
Total small arms ammunition (Machinegun and rifle rounds).....	13,287,473	+724,623
Grenades.....	52,955	+4,175
Mines.....	5,226	+76
Miscellaneous explosive (pounds) (includes satchel charges).....	81,000	+4,400
Anti-aircraft rounds.....	166,153	+6,337
Mortar rounds.....	62,481	+2,239
Large rocket rounds.....	1,934	+3
Smaller rocket rounds.....	38,998	+1,429
Recoilless rifle rounds.....	27,395	+784
Rice (pounds).....	12,908,000	+450,000
Man months.....	283,976	+9,900
Vehicles.....	396	+8
Boats.....	90	(1)
Generators.....	36	(1)
Radios.....	238	+52
Medical supplies (pounds).....	42,330	-8,470
Enemy KIA.....	10,021	+310
POW's (includes detainees).....	2,187	+83

<sup>1</sup> Unchanged  
<sup>2</sup> Field adjustment

**NOW, WHILE IT COUNTS**

Mr. HANSEN. Mr. President, it is easy to do our duty by the dead, for they make no demands upon us. We bury them, pray

over them, and erect monuments to them. If they are lost with their lives yet un-lived, in some foreign land or in a ship buried forever in the sea, we can assuage our consciences for sending them there by giving honor to their memory and making provision for their surviving dependents.

But there is another group to whom we owe even more, for they are not dead but alive, and yet not alive. We sent them in our service, and now they are prisoners. They call to us across thousands of miles of ocean. I refer, of course, to our servicemen held prisoners by North Vietnam.

It is not so easy to do right by these men, but it is our duty to do so.

It is not so easy to carry our sworn obligations to these men, but we have said we would stand by them, and it is our duty to stand by them.

The debt we owe them cannot be assuaged by a promise that, when and if they return, we shall think about taking care of them.

They are not being treated in a civilized way. They have been and are being mistreated daily. They know the full meaning of the word "barbarism," for they suffer under it. They need help now, when it will count far more than it ever can later on.

Mr. President, we Members of the Senate on this side of the aisle have determined never to cease bringing up this matter before this body. We intend to keep it at the forefront of our national conscience until a satisfactory resolution to this situation is achieved.

**STUDENT UNREST—A RESOLUTION ADOPTED BY THE MONTGOMERY COUNTY, ALA., BOARD OF EDUCATION**

Mr. SPARKMAN. Mr. President, I was pleased to see that the President has named a Commission, headed by former Governor Scranton of Pennsylvania, to study the conditions on the campuses of this country and to make recommendations regarding these problems. This is a matter which has been of great concern to me. I do not believe that a campus burdened with violence is a place conducive to the educational process for which parents are paying, in many cases sacrificing as they pay for tuition and other expenses to keep young people in college.

In this connection, the Montgomery County, Ala., Board of Education recently adopted a pertinent resolution which I wish to place in the RECORD. This resolution calls for the creation of a commission similar to that just named by the President.

Mr. President, I ask unanimous consent to have printed in the RECORD the resolution adopted by the Montgomery County, Ala., Board of Education.

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

**RESOLUTION**

Whereas, widespread disruption of the orderly educational processes on the campuses of our colleges and universities is of great concern to us; and,

Whereas, certain student activities, by a minority group on campus, contributes to

this disruption and threatens the educational future of the majority of the young people as well as the peace and tranquility of our State and Nation; and

Whereas, we believe the President of the United States and the Congress are also concerned about the present conditions existing on our college and university campuses.

Now, therefore, be it resolved by the Board of Education of Montgomery County, Alabama, as follows:

1. That the education of the young people of America is most vital to the future of this Nation.
2. That the activities of a minority group on our college and university campuses, whose purposes are to disrupt the education of the majority of students, to cause campus unrest and to bring about riots and destruction of public property must be stopped.
3. That a White House Conference with responsible student representatives, college and university officials, and administration and Congressional leaders participating would be most helpful in finding the solution to these problems which we face today and we urge the calling of such a White House Conference.
4. That the Secretary of the Board of Education of Montgomery County, Alabama is directed to send a copy of this Resolution to the President of the United States and the Congressional Delegation from the State of Alabama.

#### THE DELINQUENTS

Mr. SPARKMAN. Mr. President, the Birmingham News of June 9, 1970, published an interesting editorial entitled, "The Delinquents." The editorial deals with matters that the distinguished Senator from Delaware (Mr. WILLIAMS) has brought out on the floor of the Senate from time to time in connection with tax delinquencies in the various sections of the United States. It is a very fine editorial regarding that subject matter and also regarding the Senator from Delaware.

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

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

#### THE DELINQUENTS

It simply won't seem the same when the new Congress convenes next year and the periodic reports on the nation's public purse—and how it is abused—no longer arrive from Senator John J. Williams (R-Del.).

Sen. Williams and his Democratic counterpart, the late Sen. Harry F. Byrd, of Virginia, have been the foremost congressional watchdogs of federal spending during the era of the mammoth budgets—and as often—the considerable deficits.

The Delaware Senator has acted more often in the areas where abuse or needless waste of the taxpayers' money has been discovered.

He has just made his 16th annual report on federal tax delinquencies available for public perusal, a result of his consistent position that the taxpayer has every right to know the identity of individuals and corporations who do not pay their taxes as they should and whose tax accounts in some cases are marked off as uncollectible.

Internal Revenue Service has been most cooperative in making this information available to Sen. Williams, its efforts entailing a considerable job of classifying and listing tax delinquencies as well as the names of the larger ones.

Sen. Williams reports that 1969 delinquencies showed a 27 per cent increase over the previous year, standing on last Dec. 31 at \$2,018,789,000, just about the amount it would take to balance the next federal budget. And sizeable enough to cause the average taxpayer to grind his teeth in frustration.

On a localized note, the Birmingham IRS office reported that income tax delinquencies last year rose 50 per cent above 1968, to a total of \$6,489,000. Even worse was the 48 per cent increase in delinquent employment taxes to almost \$5½ million last year. The national increase was 60 per cent. This is money employers have withheld from their employees' pay checks and have comingled with company funds.

For most citizens who pay their taxes and for the great majority of businesses that handled their employment tax accounts in proper fashion the reports of laggard taxpayers have been galling.

The senator, however, has performed outstanding service to the American people in exposing shoddy practices inside government and the disturbing amount of unpaid taxes, some of which will be written off as uncollectible.

The people's right to know will continue to be served if someone steps forward next January to fill Sen. Williams' role with equal dedication.

#### HOUSING LEGISLATION

Mr. SPARKMAN. Mr. President, last week President Nixon made reference to the very bad situation in connection with housing throughout the country. Of course, many of us have called attention to that situation over the months. In the early part of this year I introduced four different bills, and in March the Committee on Banking and Currency approved those bills along with a bill that the Chairman of the Home Loan Bank Board had proposed, and one to which President Nixon had given his blessing. An amendment was added to that particular measure by the Senator from Wisconsin (Mr. PROXMIER).

We presented all of those bills as one bill. We combined them and presented a blanket bill in the latter part of March. Immediately after the Easter holidays, as soon as we could get to them, we took up that package bill in the Senate. We modified the Proxmire amendment, worked out by agreement among the agencies concerned and the members of our committee, and we passed that bill by a vote of 72 to 0 on a rollcall vote. All of that comprises what the President terms "emergency legislation." We regarded it as emergency legislation and we passed it.

I think the bills are good. I introduced them with the feeling that they would be good for the housing industry and the would-be home buyers in this country. I certainly feel they will do a great deal.

I cannot vouch for these figures but it has been estimated by some authorities that the full impact of this complete measure on home mortgages and home mortgage credit over the next 3 years would amount to \$20 billion. There is no appropriation involved in the measure except for the \$250 million that the Home Loan Bank Board proposed and the President endorsed for stimulating the movement of mortgages in those savings and

loan associations that need that stimulation to help take care of the differential in interest in what they have to pay for money and what they are able to get on their mortgages, particularly mortgages in their portfolios which have a very low rate of interest. I think this measure will do a great deal of good.

It was distressed a good many savings and loan associations, and I think this could do a great deal about it.

I was pleased to be the author of those bills. I was pleased to be the sponsor of the bill that was suggested by the administration. I was pleased when our committee acted. And I was particularly pleased when the Senate took it up and, after a full and fair discussion, passed it on a rollcall vote of 72 to 0.

I just want to make clear that our committee, which had jurisdiction of that legislation, did not drag its feet, and that the Senate, with the full cooperation of the leadership on both sides of the aisle, did not drag its feet in passing that legislation, which we considered to be urgent and emergency legislation.

I hope when consideration is given to the sometimes loosely used term "Congress dragging its feet," notice may be taken of what action the Senate has taken to respond to the need for legislation to help the sick housing industry of this country.

#### ORDER OF BUSINESS

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

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

#### CONSTRUCTIVE ACTIVITY ON FLAG DAY BY BOYS AND GIRLS OF JUNIOR, W. VA., DURING WATER SYSTEM COMMEMORATION

Mr. RANDOLPH. Mr. President, on yesterday, Flag Day, it was my privilege, once again, to visit my State of West Virginia, and to visit with scores of boys and girls at a meeting in Junior, a small community near my home town of Elkins.

I report to the Senate that I was most encouraged by the participation of these young people in a commemoration which was a zeroing in, once again, on the importance of water—in this instance, the near completion of a system which will bring hot and cold running water to 198 families, which families at the present time are being served inadequately by wells and springs.

Mr. President, I ask unanimous consent to include, at this point in my remarks, a copy of the program of the activities and the proclamation of the town of Junior and a message of Kenton Lambert, in part for the afternoon.

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



**THE TOWN OF JUNIOR, COMMEMORATION OF MUNICIPAL WATER SYSTEM AND FLAG DAY PROGRAM**

Master of Ceremonies: Curtis T. Lambert, Chairman, FHA State Advisory Committee. Invocation: Rev. Lawrence Abrogast, Evangelist.

Pledge of Allegiance: Junior Boy Scout Troop No. 85, Scoutmaster, Robert Skidmore. Welcome: Mayor Bobby Channell.

"This Is My Country" and "America The Beautiful": Junior Friendship 7 4-H Club, Leader, Mrs. Gerald Ware.

Recognitions and Introductions. American Legion Bagpipe Band: Howard Marsteller, Director.

Reading—"Day for Decision": Rev. Arthur Mace, United Methodist Church, Belington.

Introduction of Guest Speakers: J. Kenton Lambert, State Director, Farmers Home Administration.

The Honorable Harley O. Staggers, Congressman, 2nd District.

The Honorable Jennings Randolph, United States Senator.

Presentation of Award: J. Kenton Lambert. Interment of Unsafe Water Sign.

Benediction: Rev. Denzil Moore, United Methodist Church, Parsons.

Covered Dish Dinner by the Citizens of the Town of Junior.

**PROGRESS FOR THE TOWN OF JUNIOR**

Financing: Farmers Home Administration: Loan, \$157,420; grant, \$80,000.

**TOWN OFFICIALS**

Mayor, Bobby Channell.  
Recorder, Mrs. Barbara Peck.  
Treasurer, Howard Moore.  
Councilmen: George Markley, Robert Skidmore, Ralph Mace, Carl Vest.  
Engineer, Robert Watson.  
Attorney, John Brown.  
Contractors: Bailey Barnes, Inc. Orin Hathaway.

**FARMERS HOME ADMINISTRATION STAFF**

Okey Gallen, Jr., County Supervisor.  
Maryann Byrne, County Office Clerk.  
John Mullin, District Supervisor.

We express our sincere appreciation and thanks to all the persons and organizations who have helped to make this commemorative day a success.—Mayor Bobby Channell

**PROCLAMATION OF THE TOWN OF JUNIOR**

Whereas: Flag Day, June 14, is observed nationally by presidential proclamation and is celebrated by display of the flag on public buildings, by patriotic programs, and recitation of The Pledge to the Flag, and

Whereas: it is the duty of every American to pay special homage to the Stars and Stripes on this commemorative day, holding it to be the highest symbol of Liberty, and

Whereas: the citizens of the Town of Junior have fought for and successfully defended the Flag, safeguarding national sovereignty so as to preserve living under the peace and tranquility of American democracy,

Now therefore, I, Bobby Channell, Mayor of the Town of Junior, do hereby proclaim June 14 as Flag Day in Junior; and I invite every family to proudly display the flag and to take part in the town's gala and solemn celebration, scheduled at 2:00 p.m. at the Junior Elementary School to dedicate the new municipal water system and to honor Flag Day.

In Testimony Whereof: I have hereunto set my hand and caused the Seal of the Town of Junior to be affixed. Done at Junior this 5th day of June in the Year of our Lord One Thousand Nine Hundred Seventy.—Bobby Channell, Mayor.

**MESSAGE FROM J. KENTON LAMBERT, STATE DIRECTOR, FARMERS HOME ADMINISTRATION**

This is a time of thrilling progress in West Virginia, rural communities are moving to meet the challenge of a richer, fuller tomorrow.

The Town of Junior is truly a leader in taking action to provide its citizens attractive living conditions. We proudly salute the Town of Junior for the exemplary leadership and resulting achievements.

Mr. RANDOLPH. This successful effort of cooperation in the community, as exemplified by these youth, was in such evidence yesterday that I believe it appropriate, as we read, see, and hear so much about the difficulties of other young people, report the truly magnificent attitudes of the young people of Junior.

Placed into a casket with a velvet lining, was a metal sign 2 by 3 feet, announcing through the years that the municipal water system was unsafe. The State board of health sign had previously been displayed at the road entrances to the town of Junior. The burial had a definite purpose. We were burying a blight on the community for its lack of pure water.

These young people participated. They helped to organize, and they marched proudly in our parade. They worked diligently, with their fathers and mothers, to demonstrate in a rather dramatic way that the commitment of these boys and girls was important to the enhancement of their environment. The mayor, and all of us, welcomed these youths. They were not told by older people to stand on the sidelines. They were very much a part of a stimulating and significant event which occurred yesterday in this community of 500 persons. I believe it is encouraging.

It is also proper, at times, for a Senator to stand in this Chamber and report to his colleagues when he comes back from his State after having visited a rural community, of the very considerable contribution and cooperation of the young men and women of working with their parents in constructive steps to strengthen our economy and provide for the health and well-being of our citizens.

Yes, yesterday was Flag Day, but I saw it as a day with a special meaning. The flag takes on an added meaning. It is more than a symbol. It comes alive through that which I witnessed yesterday.

**TELEVISION INTERVIEW WITH SENATOR MILLER OF IOWA ON VIETNAM**

Mr. HRUSKA. Mr. President, in a recent television interview, the distinguished Senator from Iowa (Mr. MILLER) discussed at some length some of the major questions concerning U.S. involvement in Vietnam.

The Senator from Iowa has placed these matters in excellent perspective, and I ask unanimous consent that the transcript of the interview of June 9, 1970, be printed in the RECORD.

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

**TELEVISION INTERVIEW WITH SENATOR MILLER**

INTERVIEWER. For the past few weeks in the United States Senate there has been a very searching discussion on South Vietnam and the things which surround that war. In order to give our listeners some insight into

the problems which we face, we've asked a Senator from Iowa, Jack Miller, a man who, I think you'll agree, is quite knowledgeable. He's been a reserve officer in the Air Force for some 32 years. He served in the Burma-India-China area during the war for about 4 years. So he has an idea of what he's talking about. And, not too long ago, I think it was in '68, he made his last visit to South Vietnam. He made one prior to that in '66. At that time he was a member of the Preparedness Investigating Subcommittee and also a member of the Armed Services Committee. Currently, he is a member of two very powerful committees which mean a lot to Iowa: the Committee on Finance and the Committee on Agriculture. But, Senator Miller, I'd like to ask you very point blank, how is the war going in South Vietnam?

Senator MILLER. Well, like every member of Congress, I wish this miserable war could be over tomorrow. And it could be if the North Vietnamese would be willing to enter into a cease fire and engage in meaningful negotiations for a settlement of the war. We may hope and pray for this, but until that day happens I think the main problem is to move as rapidly as we can to enable the South Vietnamese to take over the defense of their own country. Now, in this perspective, I must say that we're certainly moving in the right direction. For five years around here, I saw this war get bigger and worse with 550,000 of our men serving in Vietnam, and the cost of the war rising to \$30 billion a year. Today, we have 115,000 fewer of our ground combat troops over there compared to a year ago, and another 150,000 are scheduled out by next spring. That's going to mean about 90 percent of our ground combat troops out. These changes wouldn't be possible were it not for the fact that President Nixon's Vietnamization program was moving ahead and moving ahead faster than I think most people had expected.

INTERVIEWER. Well, now, Senator, as you have indicated, some people say they don't think the Vietnamization program is working too well, but facts and figures as you relate them seem to prove otherwise. But I wonder about the casualties that we've been facing in South Vietnam. Do you have anything on that?

Senator MILLER. Well, of course, I know a lot of people are saying a lot of things about Vietnamization, most of it on the basis of lack of knowledge. I might add one more thing that's a favorable indicator and that is the President in his last television report to the nation pointed out that we'd have another 50,000 of our ground troops out by this coming October. Now, of course, as I say, we're moving in the right direction as far as the number of people over there are concerned. I might say, in that connection, there's an excellent article in the June 15 issue of U.S. News & World Report on this very subject, pointing out the steady decline in the number of Communist attacks and also a steady increase in the percentage of the population of South Vietnam that is under Allied control—90 percent is the percentage now. But you mention the casualties, and, of course, like everyone else I don't like any casualties, but that isn't the choice. The choice seems to be: Are we going to have more casualties or fewer casualties? Now, here again, I think we're certainly moving in the right direction. I have a report showing the list of casualties by week, not only for this year but for last year and for two years ago. I can tell you this: That in each and every week for 1970 the casualties are less than they were a year ago for the same week with one exception and that's only the matter of a very small number. Actually, it's about one half the number of casualties each week this year compared to a year ago. And you go back two years ago and it's about a

third of what there were in the comparable week of two years ago. And so, the number of casualties is going down, thank goodness, and that's headed in the right direction, I think.

INTERVIEWER. Well, Senator, as the casualties drop—we're speaking now, I presume, of casualties of our own men, rather than the South Vietnamese. Is that correct?

Senator MILLER. That's right. I might say in connection with that that the number of South Vietnamese casualties, of course, is going up. This is a part of Vietnamization—for the South Vietnamese to take over more of the ground fighting and for us to take over less, to relinquish it. That's why we have 115,000 fewer ground combat troops there today than we had a year ago. That's why another 150,000 are coming out. Now, it's true the trend of the Communist attacks is going down and that's favorable. But nevertheless, they haven't gone down enough to avoid having the casualties to our South Vietnamese allies go up as ours are going down.

INTERVIEWER. You feel, then, that they are really taking over the brunt, so to speak, of the attacks, even though they are being reduced, attacks made by the Vietcong and the North Vietnamese?

Senator MILLER. Well, there's no question about it. The casualties to the South Vietnamese troops this year are about three times the number of American casualties in each week. Now, you go back a year ago and they would be roughly about the same. You go back two years ago and the American casualties are about twice the number of South Vietnamese casualties. So, the trend is up for South Vietnamese casualties. The trend is down for U.S. casualties, which fits with this Vietnamization program.

INTERVIEWER. Of course, along with that—and of course this is a minor item really from the standpoint of our own country and our own people—is the question of the cost of the war. We'd rather have the cost low and the casualties low, I'm sure. But how about the cost of the war?

Senator MILLER. Well, here again, the trend is in the right direction. As I said earlier, this war got up to a \$30 billion-a-year cost. That was in fiscal 1968. Now the cost dropped from \$30 billion, or thereabouts, in fiscal year 1968 to \$24 billion in fiscal year 1969. It'll be down to around \$17 billion for the current fiscal year 1970, which ends at the end of this month. And the estimate for fiscal 1971 is that it'll be down to around \$13 billion. Of course, that's a lot of money, but I would sure rather see \$13 billion a year for the war in Vietnam than \$30 billion, and the important thing to emphasize, I think, is that we're moving in the right direction. If we weren't moving in the right direction, I'd certainly be very critical. May I mention one thing? In connection with those casualties, I said the casualties each week this year are substantially lower than a year ago and in most cases about half. I want you to know that I have the casualty reports since the Cambodian sanctuary operation and even with the casualties that we've suffered in Cambodia, our total casualties for Cambodia and South Vietnam by week this year—and that started about the first of May—are less by quite a bit than they were in the corresponding week a year ago. So, even with the Cambodian operation thrown in, what I've said holds true.

INTERVIEWER. Senator, we have some people who seem to think that this is an illegal war, that only the Congress has the right to make a declaration of war. How do you feel about that?

Senator MILLER. Well, there are two answers, I think. One of them is, and, of course, you know it follows, when somebody says it's an illegal war that you ought to be out of there tomorrow. I want to mention this point: That, even if the President of the

United States said "every man is going to be out of Vietnam as quickly as possible," that it wouldn't be until the end of this year that it would be humanly possible to do this. That's a pretty substantial country. You've got people—Americans—scattered all over, bases all over in the jungles, and the best estimate I've heard is that from the logistics standpoint—and I know something about logistics—it would be humanly impossible to get them all out before the end of the year. So, even if we said "it's an illegal war, let's get them all out tomorrow," we couldn't do it. But on this matter of an illegal war, I hope you would understand that if I thought that we were engaged in an illegal war, I'd be up there on the Senate floor, and I would have been up there a long time ago, condemning the whole thing. But, back in the fall of 1965, I think this problem was pretty well gone into, and most of us around here, I thought, felt it had been pretty well settled. There are two key committees of the American Bar Association which contain the cream of international lawyers in this country. Those two committees are the Committee on International Law and the Committee on World Peace through Law. Now, not every international lawyer in the United States is on those two committees, but I assure you the best ones are. Now, back in 1965, those two committees went into great depth on the war, and they unanimously concluded that we were legally in South Vietnam under the SEATO treaty and under the Charter of the United Nations. I just don't know of any authority that can match that. I know that there are some who may not go along with the American Bar Association on every matter, but here this was a unanimous decision. There wasn't a single dissent. And, to me, that's the best authority I can offer on that point.

INTERVIEWER. Well, Senator, of course, we do have experts—we have people who think they're experts and others who really are. I think you're very well qualified from a legal standpoint to speak on that subject, but we do have a certain number of college professors and people who are in respected positions who come up with different viewpoints. How do you justify that and how does the average listener justify in his own mind as to who is right and who is wrong?

Senator MILLER. Well, I think you have to make up your mind where you're going to place your confidence. I've said to a great many of my friends—and I have dear friends who disagree on some aspects of this—that if they can find me better authority I'll accept it. But the better authority to my knowledge just doesn't exist. Now I was a college law professor at one time, I wrote some law review articles, and I differed with certain court decisions and things like that, and I understand that there are some scholars who may go into this thing and arrive at some different conclusions.

However, I must repeat, here you have the cream of the international lawyers of the United States on these two committees, and they unanimously came to the conclusion that they did. Now, I think what causes a lot of the difficulty here is that there are a number of people who say, "Well, yes, they found that we were legally there under the SEATO Treaty, but the SEATO Treaty was bad." Well, I'm not going to say whether it was bad or good because I wasn't here in the United States Senate back in, I think it was, 1955 when every member of the Senate except one voted to ratify the SEATO Treaty. Senators Fulbright, Mansfield—a lot of these others who are very critical about the war—were there and they voted for the SEATO Treaty; and it's under the SEATO Treaty that the commitment was made under which we have been operating. I don't know whether I would have voted for it or not if I'd been here back in 1955, but I wasn't.

Now, here you have another aspect of this—the legal aspect. Some people saying, "well, the Constitution says that the Congress shall declare war." Well, what about that? Well, if I thought that we were operating illegally because Congress had not declared the war, I assure you I would have been up there on my feet a long time ago fighting this whole thing. But the Constitution doesn't say that Congress shall formally declare war. What counts is that Congress express its will. And Congress did so on two different occasions.

The first one was the so-called Gulf of Tonkin resolution back in August of 1964. I was up here and we were debating it. And during the course of the debate, Senator John Cooper of Kentucky asked this question: "Then, looking ahead, if the President decided that it was necessary to use such force as could lead into war, we will give that authority by this resolution?"

And he asked the question of Senator Fulbright, who was managing the resolution, as is proper since he was Chairman of the Foreign Relations Committee. Senator Fulbright replied, "That is the way I would interpret it." Now, don't tell me that the Congress didn't know what was going on. And out of the 535 members of the Senate and the House down here on Capitol Hill, there were only five who voted "no". So, is there any question about the will of the Congress after this colloquy with Senator Fulbright?

And then, I might say, if that isn't enough, seven months later President Johnson sent over a message to Congress, accompanied by an appropriation request specifically for the war in Vietnam. He accompanied this appropriation with a statement that the leaders in Hanoi and Peking had been making noises indicating that they didn't think that the people or the Congress supported the war in Vietnam.

He said I want the Congress, I hope the Congress will approve this appropriations bill which is solely for the war in Vietnam so it will demonstrate to the leaders of Hanoi and Peking that the Congress and the President are joined together in a determination to preserve the independence of South Vietnam and to prevent Communist aggression from defeating that. Well, here again of the Congress, 535 members, there were seven who voted "no". Is there any question about the will of Congress in this connection? I think it's quite clear that as far as the Constitution is concerned, the Congress has made a de facto declaration of war and has indicated its will.

INTERVIEWER. Senator Miller, I think most people who heard your discussion of that matter will agree that we are legally at war. Both the Congress, the President and all of the people are aware of that fact, and I don't think it's debatable from now on. So let's look at it from another standpoint. Many Senators may disagree with you as to what we should do or what we should not do. I'm sure all feel, however, that we should come to a peace as soon as is practical and possible without losing too many lives. So, my question has to be: What can we do along that line to accomplish a peaceful settlement of the matter with honor, which everybody says we must have? How do we do that?

Senator MILLER. Well, first of all, let me throw out this observation: I wish I could agree that everyone is agreed that we're going to get out of this war on an honorable basis, but I'm afraid that I can't say that. I have run into people who say: "we don't care whether it's honorable or dishonorable; we don't care that many thousands of Americans have given their lives for a purpose over here; let's get them out tomorrow." Now this is not an honorable basis. It's a dishonorable basis. We have pending in the Senate a so-called "End the War" amendment, an amendment 609 authored by Senator McGovern and several others.

Now, this is calculated to—I mean it has written into it—that all U.S. troops will be out of South Vietnam by July 1, 1971, roughly a year from now.

I surely don't question the good intentions about this resolution, but I must say that it almost amounts to a peace at any price proposition. It's saying: "We don't care what the circumstances are, whether it's going to cost more American lives because those that have been remaining behind have not been adequately protected; we don't care whether it's going to undercut the whole Vietnamization effort; we don't care, just so they're out by July 1." And I must say that I take a dim view of that approach. I don't question the intentions, but to me it just doesn't make sense, and the best thinking of the people I've talked to, those who have had the experience over there, agree. You can always find, I know, you can always find in any army of three or four hundred thousand men—you're always going to find a certain number of dissenters. But I've been over there; I've talked to some of these people. And, you know, I've talked to them in the hospitals, and there's nothing like talking to some of the American boys in the hospitals, especially those who are in the intensive care ward and may not make it. And to come along and undo what they've paid a sacrifice for, to me, is unthinkable.

Now, at the same time, however, that doesn't mean that we should commit ourselves to being over there for five or ten or twenty years, for ever more. I think that our commitment, and I'm quite sure that the President feels this way, has been on the premise that the South Vietnamese will help themselves as rapidly as possible. There are some people who say: "Oh, the South Vietnamese don't care about what's going on over there." Well, the South Vietnamese have lost 110,000 of their army people in this war; that would be roughly equivalent to a million and a half Americans, on a percentage of population basis.

I would venture to say that if a million and a half American boys had been killed in a war that the people of the United States could not be said to have cared. The South Vietnamese care very greatly. That's why 110,000 have been killed already, not to mention the horrible problems of many of the civilians and refugees. But I don't think there's any intention to say: "Well, fellows, if you want to drag your feet and take four or five years to have Vietnamization work, don't worry, Uncle Sam will be there to take care of you." There's no intention like that at all. And the whole progress of Vietnamization, which has only been going on a little over a year, indicates that the South Vietnamese don't intend to have it happen that way, and, of course, we don't either. As I say, by next spring, with another 150,000 of our ground forces out, that'll mean 90 percent of our ground combat troops out of there. And that, of course, is where most of our casualties have come from. We've had some casualties, of course, in the air operations and some of the logistics operations, but the great bulk of them have come from the ground combat troops. Now, when you get 90 percent of those out of there, I suggest to you that our casualties will be way, way down. I hope they're gone. But certainly they'll be way down. The next thing is: What do you do when you get Vietnamization of the ground forces accomplished? You have to get Vietnamization of the air forces accomplished. That's going to take more time.

It takes time to train South Vietnamese to maintain sophisticated aircraft. They have a number of very fine pilots, but it takes more for an air force than to have somebody who can fly a plane; you have to maintain it. There are complicated mechanical instructions, engineering instructions, and the

South Vietnamese language cannot absorb the translation of these technical publications, so we have to teach the South Vietnamese English and then familiarize them with these maintenance manuals. And that's going to take another year to a year and a half.

It seems to me that under this "End the War" amendment, to just pull them all out of there, right at the time ground force Vietnamization is about through, could undercut the whole thing that we've been working for. What is needed is flexibility for the President, regardless of who's President, so that as Vietnamization is completed in the ground forces, then the Vietnamization of the air forces can be accomplished on a phased basis and on an orderly basis.

Of course, in the meantime, I think everyone would like to see this war end as quickly as possible, and I get back to my original proposition: It could end tomorrow if the North Vietnamese were willing to enter into a cease fire and into meaningful negotiations for a negotiated settlement. There are many knowledgeable people who know more about this than I, because they've been over there and lived over there, who think that as Vietnamization increases, goes forward, as the American casualties go down, the North Vietnamese will be increasingly interested in meaningful negotiations.

Now, the trouble with the "End the War" amendment is that if you put a fixed deadline of July 1, 1971, and all American troops are going to be out, you kill off the possibilities of negotiation. There's no incentive whatsoever for the North Vietnamese to negotiate. Now I, for one—and I think most of us—want to preserve the possibility, whether it's a 5 percent chance, a 10 percent chance or a 50-50 chance, of ending this war on a negotiated settlement. And that's one of the major defects in this so-called "End the War" amendment.

I might add further that there is some possibility it might pass the Senate. I don't think there's been any nose counting, but it's possible it might pass the Senate. But around Capitol Hill, your knowledgeable people will tell you that it doesn't have a chance of passing the House of Representatives. And so I think there's a great amount of debate, going on, a lot of public agitation going on, over what in my judgment is a most unfortunate amendment—well-intentioned, but not practical—and I regret it very much. I'd like to see us move ahead into some other possible areas where you could have some bipartisan support. Another thing that bothers me about amendment 609 is that it has received some very unfortunate partisan political coloration. This particularly happened when the National Democratic Party Chairman, Larry O'Brien, came out and declared that he was very much for it and intimated that President Nixon wasn't doing a good job as Commander-in-Chief. To me, something like this ought to be about as far out of the partisan political arena as you could get anything. I've always operated on that basis, and I think it's very unfortunate that you've got partisan politics being played with this amendment.

INTERVIEWER. There's no doubt, is there, Senator, that things of this sort are very harmful to carrying out our foreign policy as laid down by the President and by the State Department? Doesn't it put us in a very non-strategic position from the standpoint of China, North Vietnam and these other people? Don't they say, "Well, the people aren't behind him. If we stick it out long enough that we won't have to lose too many men. They'll just get out and give it to us." That must be the impression, isn't it?

Senator MILLER. That's the strategy that I understand the North Vietnamese are striving for. They feel that, as American casual-

ties go on and on and on, that they can win the war in Washington, just like they won the war against France in Paris. Now, I must say that if we were not going in the right direction—if our casualties were going on at about the same level as they did a year or two ago, if the cost of the war was still up around \$30 billion, if we still had 550,000 men over there—I think that the North Vietnamese would have a pretty good strategy. But it isn't working out that way. The number of our casualties is about a third of what it was two years ago, about a half of what it was last year. And they're going down. And, of course, as Vietnamization goes ahead and you bring another 50,000 of our troops out by October and 90 percent of our ground combat troops out by next spring, I think that their strategy is going to go out the window. And that's why many people think that as Vietnamization gets nearer and nearer its final result, the North Vietnamese will be more interested in peaceful—in a negotiated settlement.

INTERVIEWER. I'm sorry we can't continue, Senator. It's been a very interesting discussion, very illuminating. I hope our listeners got a great deal out of it. This program has come to you from the nation's capital. Our guest was Senator Jack Miller of Iowa.

#### ADDITIONAL STATEMENTS OF SENATORS

##### UNITED STATES AND JAPAN ON BRINK OF CATASTROPHE IN TEXTILES

Mr. JAVITS. Mr. President, a crucial decision will be made later this week which will help to shape our foreign economic policy in the 1970's. An administration witness is scheduled to testify before the House Committee on Ways and Means later this week to outline the status of the United States-Japanese textile negotiations and to give the administration's position on the Mills bill which calls for the establishment of comprehensive quotas on all textile, apparel, and shoe imports.

Selig Harrison, of the Washington Post, has reported from Tokyo that Japan's Trade Minister, Kiichi Miyazawa, warned that Japan and the United States are on the brink of "catastrophe" in their relations. It seems that the United States-Japanese impasse over textiles which has periodically made the financial pages only of the U.S. press has consistently been front-page news in Japan. Mr. Miyazawa has also stated:

This has touched upon some deep nerves in my country, something in the national sentiment of the Japanese people. If this were a dispute between Japan and Indonesia it would be different. It is between one very strong country and another that has now become fairly strong, so factors of psychology and pride are involved.

It would not be farfetched to suggest that the serious anti-American riots now taking place in Japan over the proposed extension of the Japan-United States security treaty may be drawing support from the continuing textile dispute.

Mr. President, the picture fortunately is not totally black, and the door for a mutually acceptable compromise agreement still appears to remain slightly ajar. Minister Miyazawa also stated that Japan would make a last ditch compro-

mise offer to the United States this week. In characterizing this forthcoming offer, Minister Miyazawa has stated:

We want to show our goodwill by making this offer even though we know that it may disappoint Mr. Stans and is anathema to our own industry. We want to make it clear that we did offer this much to save the situation even though we believe that the United States has no reasonable justification for asking this of us.

It would be in the interests of all industrialized nations if the new, forthcoming Japanese offer is reasonable enough to become the basis of serious negotiations. Until this reasonable offer is forthcoming, the ball rests squarely with Japan. However, it is worth noting that, to date, all compromise proposals—be they made by American business statesmen like Donald Kendall, by U.S. congressional leaders, or by interested Europeans—have not been given the weight they deserve.

Mr. President, the seriousness of this matter cannot be overestimated. The Nixon administration is now facing its moment of truth in the trade field. The wrong decision could result in retaliation, alienation of the U.S. key trading partners, and even a worsening of the grave economic problems we face at home. It is worth recalling that imports are an easy scapegoat during a time of economic downturn, and that if imports are made such a scapegoat the downturn can be worsened.

I ask unanimous consent that Selig Harrison's article, published in the Washington Post on Sunday, June 14, and an earlier Washington Post editorial on this subject be printed in the RECORD.

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

[From the Washington (D.C.) Post, June 14, 1970]

UNITED STATES, JAPAN ON BRINK OF "CATASTROPHE" ON TEXTILES  
(By Selig S. Harrison)

TOKYO, June 13.—Japan and the United States are on the brink of a "catastrophe" in their relations recalling the economic strife of the pre-World War Two period, trade minister Kiichi Miyazawa warned yesterday.

In an impassioned appeal for rejection of pending congressional import quota legislation aimed primarily at Tokyo, Miyazawa said in an interview that "it is not out of place" to compare the current year-long deadlock in trade negotiations between Japan and the United States to "strikingly similar" struggles over textile imports in the thirties.

"I was in the United States as a college boy in 1939," he observed. "I knew what was in the air then in both of our countries and I did not like it. I do not like what is in the air now. Of course, we are a different Japan now with different ideas, and the relations between our two countries have become something very special. But even good friends can never, never afford to take each other for granted."

#### LAST DITCH OFFER

Miyazawa indicated that Japan would make a last-ditch compromise offer to the United States early next week on the eve of a scheduled June 18 appearance by Commerce Secretary Maurice Stans before the House Ways and Means Committee. It is understood that

the plan will offer one-year textile export curbs by Japan, pending a multilateral agreement within the framework of the General Agreement on Tariffs and Trade (GATT), but will not include a provision sought by the United States for automatic continuance of bilateral restraints in the event that multilateral talks fail.

Japanese industry leaders are adamant in their refusal to consider a commitment beyond one year, Miyazawa explained, and pointed to the failure of the United States to live up to the 1962 cotton agreement concluded by the Kennedy administration as proof that Washington will seek to extend any bilateral import curbs on manmade fibers indefinitely. When Japan agreed to voluntary curbs on cotton textiles under the 1962 pact, the United States pledged that "since these measures are intended to deal with the special problem of cotton textiles, they are not to be considered as lending themselves to application in other fields."

#### NO STAND ANNOUNCED

The Nixon administration has not yet formally announced its stand on a textile and footwear quota bill sponsored by Ways and Means Committee chairman Wilbur Mills. Mr. Nixon reportedly told a delegation of textile industry and congressional leaders at the White House on Monday that the outlook for a negotiated settlement with Japan and other major textile exporting countries was "not bright."

Enactment of the Mills Bill would be "the beginning of the end of the entire international trading system we have built in GATT," Miyazawa said, provoking a "chain reaction" of quota moves by electronic and auto manufacturers in the United States and demands for retaliation in both Europe and Japan.

"This has touched upon some deep nerves in my country, something in the national sentiment of the Japanese people. If this were a dispute between Japan and Indonesia it would be different. It is between one very strong country and another that has now become fairly strong, so factors of psychology and pride are involved."

#### U.S. IMAGE INVOLVED

Whatever the outcome, he added, "I am afraid that the image of the United States will be lowered in the eyes of the Japanese people because it is not felt that you are making just and reasonable demands. It also is inevitable that passage of the Mills bill would lead my critics in Japan to question why we should carry out our plans for liberation of trade and investment if the United States feels that it can act in another spirit."

Miyazawa, 51, is the leading soft-liner in the Japanese government on trade and investment issues. He has failed to find a compromise formula tolerable in the eyes of recalcitrant textile industry leaders during two months of intensive negotiations here, but has argued in cabinet councils that the Japanese government should make its planned offer anyway to avoid the impression of intransigence. If Washington shows a conciliatory response, he contends, Prime Minister Sato will then be in a stronger position to make the industry swallow a compromise, and if Washington stands pat, nothing will have been lost.

Miyazawa is the only member of the Sato cabinet who speaks fluent English and received this correspondent without an interpreter present.

"We want to show our goodwill by making this offer even though we know that it may disappoint Mr. Stans and is anathema to our own industry," he stated. "We want to make it clear that we did offer this much to save the situation even though we believe that the United States has no reasonable justification for asking this of us."

Stressing two more major areas of "seri-

ous misunderstanding" apparent in discussions with the United States since Secretary Stans paid his first visit to Tokyo in May, 1969, Miyazawa said that imports of man-made fibers from Japan represented only 1 per cent of total consumption in the United States during 1969, and that it is "obviously an overstatement to say that this causes injury or even the threat of injury to your textile industry."

An even more basic misunderstanding, he continued, lies in the American belief that the Japanese government can compel textile makers here to go along with its desires, since "we have no legal instruments enabling us to force our will on them. We have to get them to agree, to acquiesce. If the United States understands these two points, then it will be clear that our offer is in a spirit of goodwill and good faith."

#### A BRITISH PROPOSAL

When foreign secretary Michael Stewart visited Japan in April, Miyazawa disclosed, Stewart proposed that Japan and Britain co-sponsor a meeting of major exporting countries on the textile problem. But Japan declined both this offer and another from the European Economic Community because "we didn't want to gang up against the United States. We consciously avoided this to show our good faith. We argued that agreement in substance between Japan and the United States should precede multilateral moves."

Rejection of the British move was in the spirit of an assurance given by Prime Minister Sato in his talks with President Nixon last November that Japan would "do its utmost" to work out a bilateral settlement with the United States reflecting the "intimate" relations between the two countries, Miyazawa said.

The newspaper Asahi Shimbun said yesterday that the Japanese compromise offer was cabled to ambassador Takeso Shimodda for presentation to the United States following a meeting Thursday between Sato, Miyazawa and foreign minister Kiichi Aichi.

#### LIMIT TO GOODWILL DEMONSTRATION

Miyazawa avoided the use of the word "final" to describe the expected offer. But he said that "there is a limit beyond which we cannot commit ourselves, a limit to what we can do as a maximum show of goodwill. That is not threatening anybody. It is a simple statement of what we can do and not do. It would be a diplomatic lie to promise something to the United States that we could not hope to get our industry to accept."

It is understood that government leaders envisage export curbs during the one-year bilateral restraint period permitting an increase over 1969 Japanese export levels to the U.S. fixed on the basis of the average annual growth in U.S. consumption of manmade fibers during an agreed-on recent period. One widely-mentioned plan would base this average on the past three to five years.

In addition to the term of possible curbs and the export levels permissible, Japan and the United States are also at odds over whether the proposed curbs should be applied on a blanket basis or only on specified items. The government plan would reportedly exclude items not produced in the United States on the argument that imports in these areas do not inflict damage to the domestic industry under GATT criteria.

"The gap between us at the moment is great," Miyazawa concluded, "but there is still a little time in which we can act to avoid catastrophe." When critics in the textile industry and the ruling Liberal Democratic party "talk to me about humiliation, I remind them of the record of relations between our two countries and of how much we owe the United States. I ask them which is more humiliating, to owe something or to give something?"

[From the Washington (D.C.) Post, April 12, 1970]

#### A WEATHERVANE CHOICE ON TRADE

For more than a year Mr. Nixon has wavered between sectional and special-interest demands for trade protection, and the broader national interest in freer trade. Now—in the textile dispute with Japan—he is at his administration's first moment of truth on this critical issue. If he caves in to his political creditors in Southern textile states, he will be beckoning a protectionist wave that will probably sweep far beyond textiles and that also will probably doom his own trade bill. A major trade war is regarded by experts as a real possibility. If, on the other hand, he takes advantage of the moderate option open to him, his administration stands a good chance of riding out the rough trade storms ahead.

In the campaign Mr. Nixon promised Strom Thurmond to limit imports of man-made and woolen textiles from Japan, and upon election he dispatched his Commerce Secretary to Tokyo (and other East Asian points) to make his promise good. But Japan, its government more nationalistic and its legislature more textile-minded than at any time since the war, dug in its heels. The mood grew intolerably bitter on both sides and progress seemed completely balked until Donald Kendall of the liberal Emergency Committee on American Trade proposed a compromise. The Japanese government, albeit reluctantly, accepted the Kendall plan as a basis for continuing talks. The American government, however, so far has not accepted this plan. Senator Javits is manfully struggling to put the administration's own best foot forward for it, but the industry-oriented Commerce Department is holding the other foot back.

The plain requirement is, as Mr. Javits states, presidential intercession. Everybody interested in world trade is watching the White House intently to see how it handles this weathervane case. Protectionists in Congress are poised to exploit a sign of weakness. Over-all relations with Japan, the country the United States hopes to make its main Asian partner, are to a large extent in the balance. The Kendall plan—a freeze on imports for a year while a presidential commission makes a case-by-case determination of import injury—offers a reasonable way out. It remains only for Mr. Nixon to decide whether the nation's stake in expanding international trade is of higher value than a political debt.

#### THE FUTURE OF DULLES INTERNATIONAL AIRPORT

Mr. SPONG. Mr. President, I ask unanimous consent to have printed in the RECORD an interesting article entitled "Stretch Jet Key at Dulles," written by William N. Curry, and published in the Washington Post of June 11, 1970.

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

##### STRETCH JET KEY AT DULLES (By William N. Curry)

At 1:23 on a recent Sunday afternoon, a four-engine Pan American jet rolled down the runways at Dulles International Airport, pointed its nose at the hazy sky and became airborne, on its way to Guatemala City.

Then there was one jetliner left at the \$110-million Dulles International—an O. Roy Chalk Trans-Caribbean jet from Puerto Rico. A woman who had put a dime in the coin-op binoculars on the observation deck called out to a friend, "Come here, Polly, all you can see's a bunch of trucks."

In the sky, an Eastern Air Lines DC-9 was

making practice runs on a deserted Dulles runway and a few gnat-sized private planes seemed to be playing touch-and-go on the concrete strips.

A man with a home movie camera wandered around the observation deck looking for something to photograph.

That day, like all but one other, there was no spectacular skyjacking drama to give the airport a few hours of attention.

To be sure, Dulles International, sequestered in rural farmland on the western edge of Fairfax County, does have its peak traffic hours. But its empty, cavernous terminal, its nonjamming auto traffic, its unmanned ticket counters, its time-killing skycaps and its deserted restaurant contrast sharply with Washington National Airport on a Sunday afternoon.

There, plane after plane is lined up by the terminal in some phase of loading or unloading, people thread their way through the crowded terminals, cars dent their way around the traffic circle, long queues protrude from ticket counters and waitresses scurry in the airport restaurant.

In the year ending June 30, 1969, Washington National handled 10,051,906 passengers while Dulles accommodated 2,006,274. That year many of the concession stands at Dulles made a profit for the first time. The airport opened in November, 1962.

During 1969, there were 225,609 takeoffs and landings by air carriers at National, 61,535 at Dulles.

Dulles is getting busier. In 1965, 863,435 passengers passed through its gates. But the same year, National was processing 6,544,081 and Baltimore's Friendship more than 1.6 million.

And by 1980, it is estimated, Dulles will have a 29 per cent share of the Washington area airport business while National and Friendship each has 36 per cent. Now Dulles has only 13 per cent of the passengers.

To sum up, of all the airline passengers who arrived at or departed from National, Dulles and Baltimore Friendship, two-thirds did so at National.

It is this disproportionate activity (and the jet noise and fumes that go with it) that has prompted civic groups, planning commissions and some congressmen to urge the Federal Aviation Administration (FAA) to order that many flights be transferred from National to Dulles.

But so far they have not made much headway. And a recent decision by FAA administrator John H. Shafer to finally allow stretched jets (longer fuselages, more passenger seats) into National may complicate things.

An FAA staff study obtained by Sen. William B. Spong (D-Va.) asserts, "Under present circumstances, the critical point in the growth of Dulles will occur when restrictions at National force the transfer of significant service, particularly to Chicago, from National to Dulles."

"In our judgment that day is not far off now. But the decision to admit the stretch jet to National (setting the precedent for even larger air buses) will postpone that day indefinitely."

In other words, the FAA prediction last November that by 1980 Dulles would handle 11.38 million passengers is in doubt. And the growth of National's passenger load would exceed the 1980 projection of 16.4 million a year.

The use of a stretch jet enables an airline to carry more passengers at roughly the same cost as flying a regular jet. Thus, it was forecast that when an airline found it could make more money by flying a stretch jet out of Dulles than by using a regular jet at National, many flights would be switched to Dulles.

So the FAA study concluded that allowing stretch jets at National would mean "indefinite postponement of the day when a

major air carrier would be motivated to transfer significant service" out of National.

"The hard, cold facts are that the stretch Boeing 727 cannot be employed profitably at National without substantially altering the prospects for growth of Dulles and Friendship," the study said.

At 1:43 on a recent Sunday afternoon, a United Air Lines Boeing 727 from Kansas City touched its wheels to the runways, coasted almost to a stop and then rolled to a boarding gate. Now there were two planes again at Dulles International Airport.

#### CONVERSION OF GARBAGE TO OIL

Mr. METCALF. Mr. President, we as a Nation are blessed with an abundance of many low-cost materials of short-duration utilization. As a result, we are facing an increasingly overabundant supply of municipal waste. This urban refuse is not only a major environmental problem, but the associated costs of disposal are high, and the apparent waste of potentially reusable minerals are appalling. Scientists and engineers in the Bureau of Mines, as reported in the June 1970 issue of Industrial Research, appear to be making significant progress in their efforts to assist in the solution of this mounting waste problem.

Mr. President, 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:

##### LEST WE FORGET—CONVERTING GARBAGE TO OIL

PITTSBURGH.—Interior Department scientists, who late last year started experimentally producing oil from garbage and waste paper, have significantly improved and reduced the cost of the process.

A ton of wet urban refuse—minus bottles and cans—now can be converted into a little more than one barrel of crude oil by treating it at 1,500 psi with carbon monoxide and steam at 250 C. Earlier conversions required 5,000 psi, 370 C, and higher concentrations of carbon monoxide, all of which greatly increased process cost.

Last year's experiments, conducted by research chemists at the Pittsburgh Coal Research Center of the Bureau of Mines, yielded a benzene-soluble oil as the final product. Latest tests have produced a thicker, acetone-soluble oil. This change is attributed to the use of lower pressures, temperatures, and CO concentrations.

The recent tests also have confirmed earlier results that oil converted from garbage is low in sulfur—about 0.1%. Low-sulfur fuels are particularly valuable for reducing sulfur dioxide pollution. Nitrogen content is relatively high (2 to 3%), however, and will have to be reduced before the oil would be suitable for refining into gasoline.

The experimental conversion process also works on wood by-products and sewage sludge. Oil yields in this case have about the same nitrogen content as the oil from garbage, but the sulfur is slightly higher, about 0.5 or 0.6%.

#### WHO CAN AFFORD THE SST?

Mr. PROXMIRE. Mr. President, a column published recently in the Chicago Sun Times puts the SST program in just the proper perspective. The column points out that the U.S. airlines are already overcommitted on the new jumbo jets, and that some of the orders may have to be canceled. It is clear that un-

less the airline industry can pull out of the financial tailspin it has been experiencing lately, it will not come close to being able to put up the money for the new SST's when they come along.

The column also describes a tape-recorded statement that the Department of Transportation prepared for dissemination by phone. Anyone calling a special number would hear a message justifying the SST in terms of the number of jobs that could be saved. As the Chicago Sun Times notes, "saved from what?" Needless to say, Dial-an-SST does not have an answer for this.

Mr. President, I ask unanimous consent that the column entitled "Who can afford the SST?" be printed in the RECORD.

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

WHO CAN AFFORD THE SST?

(By William Hines)

WASHINGTON.—By the barest of margins late last month, the Albatross (as the supersonic transport airplane, or SST, is sometimes called) survived a test in Congress, perhaps to fly on some remote day.

But the outcome of the vote in the House on May 27 should provide food for thought, and give the Albatross' sponsors occasion to wonder whether this eminently non-essential project can survive another attack by its growing body of opponents.

Sitting as committee of the whole to consider items in the Department of Transportation budget, the House defeated a motion to strike \$290 million allocated for the SST. The vote was too close for SST proponents' comfort: 176-162; a switch by only eight lukewarm Congressmen would have killed the program.

It was obvious that the SST's sponsors were running scared even before the vote. Now that they have sampled the sentiment of Congress, the plane's lobbyists can be relied on to intensify their propaganda campaign in an effort to defeat a similar maneuver when the transportation budget reaches the Senate.

The lobbying has been spearheaded by the Transportation Department in response to the well-known fact that a mother tiger has not 1-10th of the ferocity of a bureaucrat whose empire is threatened. Late last month the department put out an official statement answering criticism of the SST project with the rather sweeping assertion that "none has any substantial basis in fact."

That was only part of it. Undersecretary of Transportation James M. Beggs signed a letter to the New York Times alleging "some rather serious inaccuracies" in an editorial (adverse, of course) about the SST. The department, following up its contention that all criticism of the Albatross is "specious," launched a propaganda counterattack playing on popular concern over the shakiness of the economy.

In a tape-recorded statement nearly two minutes long, which could be heard by dialing a well-publicized number in Washington, a dulcet-voiced girl said:

"If the SST prototype program is successful, it has been estimated that the jobs of more than 50,000 production workers and another 200,000 jobs in allied services will be saved."

Saved from what? She did not say.

But perhaps all the maneuvering pro and con in Washington will have less effect on the SST's fate than what is going on in the aviation industry today—eight years, by the most confident estimate, before the first SSTs will be hauling revenue passengers.

This is the unhappy profit-and-loss position of the airline industry, which is head over heels in debt for a new generation of airplanes and probably won't be ready for another vast capital outlay in the 1970s.

The Air Transport Association spokesman for the U.S. airlines warned on May 25 that some orders for the new jumbo jets may have to be cancelled. ATA's annual compilation of "facts and figures" shows that the 12 major U.S. carriers are committed for \$6.6 billion worth of new equipment in the next three years, the bulk being for Boeing 747s at \$22 million each and Lockheed L-1011 and Douglas DC-10 trijets at \$15-18 million each.

The airlines say they must have a fare increase over and above the 10.19 per cent they received in two hikes last year. This may be self-defeating because historically the carriers have found that the way to fill airplane seats is to sell them more cheaply.

The financial position of the airlines may render the Albatross as dead as the dodo by the time it becomes necessary to start hiring those 250,000 workers whose jobs will supposedly be "saved" by this gigantic technological WPA. If this can be conveyed to Congress before final action on the transportation budget, perhaps it will be possible to give this tired bird a decent burial.

THE 30TH ANNIVERSARY OF LOSS OF FREEDOM BY BALTIC COUNTRIES

Mr. ALLOTT. Mr. President, 30 years ago today, the armies of the Soviet Union invaded and occupied Lithuania, Latvia, and Estonia.

The brave people of the Baltic States must not be forgotten by those of us fortunate enough to retain our freedom in this dangerous century. In fact, we should all learn a lesson from their current plight.

It is very easy to lose freedom. It is terribly hard to win it back. It is much easier to preserve despotism than liberty, especially when despotism is backed by the tanks and bayonets of the Red army. This is the army that is enforcing despotism throughout Eastern Europe today, and which would be enforcing despotism in every town and hamlet of Europe today were it not for the vigorous opposition of the United States.

We must hope that the dark despotism that exists wherever the power of the Soviet Union extends will not endure forever. And we must join with all friends of the Baltic peoples in calling on world public opinion to censure the Soviet Union for its continuing criminal occupation of these countries.

A SALUTE TO JULIAN ROSS

Mr. BIBLE. Mr. President, our Government's policy of fostering the economic health of the Nation's 5½ million small business firms would indeed be a mock effort without support from those individuals in Government and industry who are strongly committed to this policy. It is a well-known fact that many people regard our national small business policy as a political gesture not to be taken seriously. But Congress established a small business policy for our Government, for sound economic and social reasons, and we must rely on cognizant Government officials to implement the policy.

I invite the attention of Senators to one individual who, as a public servant, has had the task of getting the job done for the small business program in one of our defense agencies.

The gentleman of whom I speak is Julian F. Ross, who is retiring from Government service as Small Business Adviser for the Defense Supply Agency. Mr. Ross has been in Government service since 1942; for the last 25 years he has worked in the Government purchasing system, serving between the years 1945 and 1962 as Assistant to the Chief of Procurement, Army Office of Quartermaster General; Staff Director of the Armed Services Textile and Apparel Procurement Agency Directorate; and Acting Director of Business Services and Chief of Small Business, General Services Administration. He has served as Small Business Adviser for the Defense Supply Agency since 1962.

Few people recognize the responsibilities that our Government employees involved in purchasing activities are asked to bear. These people are entrusted with and authorized to spend billions of taxpayers' dollars and are accountable for buying the best for the Government at the lowest price. Mr. Ross not only had to be concerned with protecting the interest of the Government and the taxpayer; he was also charged with looking after the interests of small Government contractors.

I should say that it is quite a job for a man to perform adequately. But I would not be talking about Julian Ross today had he merely performed his job "adequately." He brought tenacity and imagination to bear against all of the complexities and frustrations of his job of promoting small business contracting, and his record of performance testifies to the success of his efforts.

I know that many Senators are aware of the fine record of small business contract awards that is held by the Defense Supply Agency. I know that many are aware of the courteous and effective manner in which the DSA small business office responds to congressional inquiries. Many of us have had cases involving small firms under contract to DSA which needed to cut through the maze of bureaucratic redtape, which needed someone to listen sympathetically, which needed help beyond that provided by arbitrary procurement rules; which needed all this to be able to get the contract work done on time so that no one would lose—neither the contractor nor the Government.

As chairman of the Small Business Committee, I have seen Mr. Ross' office give that extra bit of help many times for our committee, its members, and to Members of the Senate as a whole. And not begrudgingly, just because it was expected, but because there was a job to be done—the job of sometimes running interference for small contractors, sometimes guiding, sometimes counseling, and always, always, doing a selling job to buying officials that small firms can do the job if given the opportunities.

Mr. President, I wish Julian Ross a fulfilling retirement, and I thank him

for a job well done in service to his country. I know that his example as a man who was not afraid to commit himself strongly to his job will influence all who worked with him for many years to come.

#### MILWAUKEE JOURNAL SUPPORTS THE GENOCIDE CONVENTION

Mr. PROXMIER. Mr. President, I am proud to say that the Milwaukee Journal is among the growing number of newspapers urging Senate ratification of the Genocide Convention. In an editorial, dated June 5, the paper notes that—

A great nation that is a party to more than 4,000 treaties still perversely spurns one that merely renounces the unthinkable.

The paper goes on to say:

A nation that refuses to take the pledge against such an inhuman crime among nations can only appear to want the weapon in its arsenal.

Mr. President, the Journal editorial should serve to remind all of us in the Senate that our failure to ratify the convention can only hurt the Nation's credibility at a time when confidence in the Nation's principles is most important.

I ask unanimous consent that portions of the Journal editorial entitled "Do We Support Genocide?" be printed in the RECORD.

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

#### DO WE SUPPORT GENOCIDE?

A great nation that is party to more than 4,000 treaties still perversely spurns one that merely renounces the unthinkable. After 21 years, the continued U.S. nonacceptance of the UN Genocide Convention not only shames this nation but insults the 75 sister nations that have long subscribed to it. The US looks silly and suspect.

Last year President Nixon revived the issue by properly resubmitting the treaty to the Senate and urging ratification. Sen. Proxmire of Wisconsin has been taking the floor to remind the Senate of its ratification duty every single day it is in session. New hearings by a foreign relations subcommittee have raised hope.

From the outset in 1949 the American Bar Association has maintained the principal blockade with twisted and outdated legalisms, despite all the secretaries of state and attorneys general who have repeatedly discredited all objections and fears. All ABA sections having cognizance of the subject matter, along with the current ABA president, have recently sought to reverse its embarrassing position. That hopefulness was dashed in February by a 130 to 126 adverse vote of the ABA House of Delegates.

Genocide is a systematic national policy of exterminating a whole ethnic, racial or religious group. The United States itself led the UN to call unanimously for its formal outlawry, when the genocidal horrors of German Nazism were being freshly exposed. A nation that refuses to take the pledge against such an inhuman crime among nations can only appear to want the weapon in its arsenal. Our small company outside the pale includes, for instance, racist South Africa.

This country is making itself look as if it were really afraid that it might be accused of genocide, with no successful defense. The continued refusal to ratify almost confesses that.

#### THE 30TH ANNIVERSARY OF LOSS OF FREEDOM BY BALTIC COUNTRIES

Mr. HRUSKA. Mr. President, my dedicated colleague from Nebraska (Mr. CURTIS) was unavoidably detained in the State today following several week-end appearances there, but he has not forgotten a very important item which he had placed on his agenda for today in the Senate.

The item is important not for its pleasure but rather for its tragedy in the history of man, and for the courage it takes to remind the world of its past errors in order that those mistakes are not made again by men who are free or in whose hands the freedom of themselves and others rests.

Senator CURTIS has asked me to bring to the Senate the remarks which he had prepared for delivery here today on the occasion of the 30th anniversary of the invasion and enslavement of the Baltic countries—Lithuania, Latvia, and Estonia—by the Soviet Union.

I present my colleague's message with my full endorsement, Mr. President, as a solemn reminder of the high price of freedom once it is lost, and ask unanimous consent that it be printed in the RECORD.

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

#### STATEMENT BY SENATOR CURTIS, 30TH ANNIVERSARY OF LOSS OF FREEDOM BY BALTIC COUNTRIES

Mr. President, some national anniversaries are in reality tragedies, but they must be marked and remembered if we believe in freedom and self-determination.

June 15, 1970 is such an anniversary. It is now thirty years since the Soviet Union invaded, occupied and demolished the three independent Baltic countries, Lithuania, Latvia, and Estonia.

On June 15, 1940, as part of their cynical deal with the Nazis, the Russian Communist armies marched into the Baltic nations.

Thereafter, the world had the first demonstration of what is still a favorite Soviet political charade: "Elections" were held under the benign influence of Russian troops, guns and tanks. The people of Lithuania, Latvia and Estonia were then informed they had voted to surrender their independence in favor of life in the Soviet anathema.

The Russian Communist leaders put the lie almost immediately to their own propaganda.

If the Baltic peoples had so easily and eagerly consented to submerge themselves in the Soviet Empire, why did their new rulers feel it necessary to drag hundreds of thousands of Balts off in cattle cars and dump them into the Arctic and Siberia?

Why has this brutal policy continued until today?

Why, since June 15, 1940, have Lithuania, Latvia and Estonia literally lost more than one fourth of their entire population?

Because the Baltic peoples never consented to this fraudulent union, and have continued to resist in one way or another ever since.

Nor has the Government of the United States ever recognized the seizure and forced "annexation" of Lithuania, Latvia and Estonia.

To our credit, we maintain diplomatic relations with the former free governments of the Baltic peoples.

All Presidents, since June 15, 1940, from Franklin D. Roosevelt to Richard M. Nixon, have firmly held to the nonrecognition of

the illegal occupation of the Baltic States by the Soviet Union.

Just as noteworthy, Congress has adopted House Concurrent Resolution 416 calling for freedom for Lithuania, Latvia and Estonia.

This is our declaration that we will not forget these brave peoples and that we will continue to urge our President to direct the attention of world opinion at the United Nations and other international forums to the denial of the right of self-determination for the Baltic peoples.

Mr. President, it is a fact that the United Nations has increased to over 120 nations, with the greatest increase in small membership occurring during the last decade.

Without exception all of these new nations were former commonwealths or colonies controlled at one time by Governments of Western Europe.

There are few vestiges remaining of what was once labelled Western Colonialism.

But colonialism is not a thing of the past. The Soviet colossus stands astride a great empire. Millions of people have been made subject to the new imperialism. Moscow has become the capital of 20th century colonialism.

It is tragic and ironic that as former colonies in Africa and Asia emerge into nationhood, and take their place in the United Nations, other ancient and honorable people, such as those of Lithuania, Latvia and Estonia remain imprisoned in the Soviet Empire.

It would seem to me, that these new nations, so proud of their hard-won independence, and so outspokenly anti-colonial in their outlook, should lead the fight to expose and penalize Soviet colonialism.

Across half the globe, the Soviet empire sprawls—enslaving not just the Baltic nations, but peoples of East and Central Asia, of Asia Minor, of the Balkans, of East Central Europe.

Let us resolve to keep this record of repression and colonialism, of enslavement and actual genocide, before the free Governments of all the world, and before the United Nations.

Lithuania, Latvia and Estonia have kept alive their culture, their identity and their love of freedom despite implacable attempts to submerge them.

It is our duty to take their message which comes from behind the Iron Curtain, to amplify it and broadcast it all over the free world.

These unwilling Soviet colonies must know we support them, that we abhor the deeds of their foreign masters, and that we will never cease to protest the tyranny of Soviet colonialism.

#### RESIGNATION OF DR. JAMES E. ALLEN AS U.S. COMMISSIONER OF EDUCATION

Mr. ALLEN. Mr. President, on May 5, 1969, when the nomination of Dr. James E. Allen, Jr., to be U.S. Commissioner of Education and Assistant Secretary of the Department of Health, Education, and Welfare was before the U.S. Senate for confirmation I spoke in opposition to his nomination and later voted against the confirmation of his nomination.

I ask unanimous consent that the entire text of my speech of May 5, 1969, published in the CONGRESSIONAL RECORD, volume 115, part 9, page 11410, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ALLEN. Mr. President, the same arguments and reasoning which I ad-

vanced at that time in opposition to his nomination are pertinent today in the aftermath of Dr. Allen's forced resignation from his position as U.S. Commissioner of Education and Assistant Secretary of the Department of Health, Education, and Welfare.

It is to be hoped that Dr. Allen's successor will be more interested in educating children rather than in busing children. It is to be hoped also that he will work toward seeing that our schools are returned to local control and that the freedom of choice concept and concept of neighborhood schools are implemented by his Department.

#### EXHIBIT 1

REMARKS BY SENATOR JAMES B. ALLEN, REGARDING DR. JAMES E. ALLEN, ON SENATE FLOOR

Mr. ALLEN. Mr. President, I speak in opposition to the confirmation of the nominations of Dr. James E. Allen, Jr., to be U.S. Commissioner of Education and Assistant Secretary of Health, Education, and Welfare.

Although our names are quite similar, since mine is James B. Allen and his is James E. Allen, we are not related. I am sure he would hasten also to assure the Senate of the same thing.

We come from different areas of the country, he from West Virginia by way of New York, and I from Alabama, so it is not surprising that our ways of life and our outlooks and viewpoints are different.

The office of U.S. Commissioner of Education and the office of Assistant Secretary of Health, Education, and Welfare are important positions, important to the people of Alabama and of the Nation. The holder of this office will help to formulate and put into practice the Nixon administration's policies concerning our schools.

A man who has the views that Dr. Allen has is not the man to whom should be entrusted the welfare of the schoolchildren of the Nation. In my judgment, his goals are social goals more than educational goals. He is more interested in conducting social experiments with schoolchildren than in seeing them get quality education. He would lower the levels of education to the lowest common denominator rather than to raise levels.

More than any other person, Dr. Allen is responsible for the concept of busing students from one section of a town or county to another for the purpose of achieving racial balance in a given school system.

He has been nicknamed "Mr. Busing"—and with adequate reason. The busing of students to achieve a racial balance is completely contrary to the principle of freedom of choice for students. It is forced integration instead of the absence of discrimination, which court rulings require.

Just recently the New York Legislature passed a bill providing that no State funds shall be used to bus students for the purpose of achieving a racial balance. So Dr. Allen's policies have been repudiated by the very State which he has been serving and where he put into practice his busing ideas.

We do not need to have Dr. Allen continuing the policy of forced integration of our schools through the busing of students, through court orders, through the withholding of Federal financial support from our schoolchildren. Are we not having enough troubles with our educational institutions already because of riots, rebellions, and lack of adequate funds? I believe we are.

I know that our State government and school systems in Alabama want to make available a quality education to every boy and girl in Alabama. Without Federal intrusion and a takeover of our schools, that is just what will be done in Alabama.

Earlier in this session of Congress, I placed in the CONGRESSIONAL RECORD an editorial published in the Dothan, Ala., Eagle. The editorial quoted in full an article published in Human Events, from which I shall read, specifically incorporating these words and phrases as my own. The article is entitled:

#### "MR. BUSING" COMES TO WASHINGTON

"Republican politicians were intensely unhappy last week with the naming of the controversial Dr. James E. Allen—a zealous school integrationist—to two powerful positions in the Department of Health, Education, and Welfare. The startling selection of New York state's commissioner of education who will assume both the jobs of assistant secretary of HEW and U.S. Commissioner of Education in the Nixon Administration, is considered a stunning setback by GOP strategists who realize the party must move southward to forge a permanent Republican majority. Yet the strange choice of Allen—made by Nixon's supposedly good friend Robert Finch—promises to wreak havoc with that plan.

"If anything can regitalize the Wallace movement," noted one Southern Republican last week, "it is the appointment of such persons as Allen." But Allen's policies—if implemented on a national level—are bound to trigger an adverse reaction to the Nixon Administration not only in the South but in almost all other sections of the country as well.

"The czar of New York's primary and secondary education system for 14 years, Allen has become the champion in inflexible and irresponsible integrationist policies, policies which Nixon repeatedly—and vigorously—opposed during the campaign. He is, in fact, "Mr. Busing" himself. Moreover, in New York's decentralization struggle, Allen allied himself with the racial militants, both black and white.

"What Allen will probably choose to accomplish in his new post can be gauged from his New York performance in the past six years. On June 14, 1963, he issued a directive to every school district in New York demanding the elimination of 'racially imbalanced' school which he defined as 'one having 50 percent or more Negroes enrolled.' Since this incredible edict, Allen has been disrupting the state's local system by energetically trying to end de facto segregation, closing down perfectly good schools if they are "racially imbalanced" and "instituting a massive busing program . . ."

I interpolate that in the State of Alabama, we have had more than \$15 million worth of schools closed—perfectly good schools, some brand new—in order to implement a program of this sort.

"Upon being formally nominated to his new position last week, Allen did nothing to suggest a softening of his previous positions. He even went so far as to stress that he was "fundamentally" in agreement with the past Commissioner of Education, Harold Howe II, whose plans to achieve compulsory racial and economic integration in the nation's schools included massive busing, educational parks and the virtual elimination of neighborhood schools.

"Allen's love for Howe was not exactly a surprise, however. Indeed, Allen's chief aide in implementing his own compulsory integrationist policies was one Theron Johnson, who became a special assistant to Howe in 1966. Also an advocate of busing and educational parks, Johnson plans to stay in his \$25,000-a-year job to serve Allen once again.

"Yet Allen's attitude on integration is not all that is disturbing. In the late 1950s, Allen put pressure on the city board of education to help eliminate an investigation into Communist teachers headed by assistant corporation counsel Saul Moskoff. Allen, further, is considered almost as responsible as John Lindsay for permitting racial militants

to take over the schools in the Ocean Hill-Brownsville area.

"The Allen selection, then, bodes ill for the Nixon Administration. Unless Allen can be hamstrung, HEW will be a far more activist department than Nixon—or its new secretary Robert Finch—had led many to believe."

Then, as shown in the CONGRESSIONAL RECORD of April 23, 1969, this matter received attention in the House of Representatives, when Representatives JAMES M. COLLINS of Texas stated:

"There is pressure to bus children from 6 to 13 miles away from home. If an elementary schoolchild is 10 miles away from home, he cannot go home if he gets sick during the day. A girl cannot stay after school to rehearse school plays; a teenager cannot take part in athletic events; a weak student cannot have special tutoring in weak subjects because all would miss the bus. Parents' attendance at PTA meetings would be difficult in the evenings. The long bus ride would immeasurably lengthen the day for the student. In addition to that the cost of busing could become astronomical.

"Mr. Chairman, many statistics show the unpopularity of this subject of busing. Nation School magazine, May 1968., reported a poll that showed that 74 percent of the Nation's school superintendents did not support busing as a desegregation measure. This same survey showed that the members of the school boards, by 88 percent, would not personally support a busing program. And, this is interesting: in Today's Education, March 1969, an NEA research division survey showed that 78 percent of the teachers oppose busing students from one district to another."

Everyone is against busing, but yet busing continues.

I read next an excerpt from an editorial published in the New York Daily News on March 28, 1969, entitled "Let's Drop Forced Busing."

"After a hot debate, the Assembly day before yesterday passed by a 104-41 vote the bill to end compulsory busing of school children in the interest of integration.

"Any school district whose citizens wanted such busing could go ahead and have it, under this proposed law.

"But State Education Commissioner James E. Allen Jr.'s notion that black children should be shipped into white majority schools and vice versa by order of Doc Allen would be junked.

"The Allen idea sounds good at first hearing—mix the races early in life, get 'em to know one another, and so on.

"It hasn't worked out that way in practice, and we doubt that it ever will or can. Let's drop it, via State Senate passage and signature by Gov. Rockefeller of the no-compulsory-busing bill, and soon."

That is the reaction of at least some of the press in the State of New York.

Mr. President, the schools of Alabama are institutions near and dear to the hearts of our people, ranking just behind our churches. We resent very much the prospect of having a man with the political views, the political philosophy, and the sociological thinking of Dr. James E. Allen, Jr., confirmed as U.S. Commissioner of education and Assistant Secretary of the Department of Health, Education, and Welfare, and put in charge of enforcing the educational policies of this Nation. As the junior Senator from Alabama, speaking for the people of Alabama, I strongly oppose the confirmation of Dr. Allen for this position.

#### THE IMPOSSIBLE DREAM—ESSAY BY KAREN BAKER

Mr. HARRIS. Mr. President, each year, rural electric cooperatives in Oklahoma conduct an essay contest among high



school juniors to determine who will be selected to participate in the annual Washington Youth Tour. This youth tour is conducted by rural electric cooperatives in Oklahoma, which each year give some 60 high school juniors an opportunity to come to Washington and view their Government firsthand. These young people write some excellent essays, and this year the Oklahoma congressional delegation, as hosts at a breakfast for the Washington Youth Tour participants, were fortunate to hear the essay of Miss Karen Baker, entitled "The Impossible Dream." This particular piece of work is an excellent example of the capabilities of today's young people. I ask unanimous consent that it be printed in the RECORD so that others may have an opportunity to read it.

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

#### THE IMPOSSIBLE DREAM

"To dream the impossible dream  
To fight the unbeatable foe  
To bear with unbearable sorrow  
To run where the brave dare not go  
To right the unrightable wrong  
To be better far than you are  
To try when your arms are too weary  
To reach the unreachable star."

This quote is part of a song from the Broadway show, "Man of La Mancha," a play about a man who strives to reach his dream in spite of seemingly insurmountable odds. It can also be applied to another dream, for, many years ago, farmers too had a vision—a home with artificial light, air-conditioning, entertainment, a dishwashing machine, a clothes washing and drying machine, hot running water, a cooking stove, and many other conveniences provided by electrical power. This was their dream home, and to some it seemed an impossibility. Although it was only a dream, it seemed feasible to many people. Because of those people that dream became a plan, and from that plan came action, and the dream came true.

This action began with legislation in 1935 that created the Rural Electrification Administration, through which loans were made available to groups that were interested in providing electricity for rural homes. This offered a better way of living to many thousands, and those people accepted that offer. They also accepted the challenge that accompanied it, because of the dream which they were determined to prove was *not* impossible.

Even with government assistance, provided by the Rural Electrification Administration and the Rural Electrification Act passed in 1936, the responsibility of carrying out the project lay mainly in the hands of those it affected most—the rural citizens.

People unacquainted with country living simply did not realize the need for making electrical power available to rural areas. So it was necessary for people living in those areas to join together and organize their own non-profit corporations if they were to make their dream become a reality.

They formed member-owned Rural Electric Cooperatives, which are owned by the people who use the cooperative's services. These members operate their REC democratically, each member having one vote, regardless of the amount of his services or investments. These member-owners elect a board of directors who in turn employ a manager and staff of workers to carry on the cooperative's activities.

For a time, even as groups the rural citizens sometimes met with financial difficul-

ties. Earlier government aid proved to be inadequate, so the Pace Act was passed in 1944. This act, which provided for 2% loans and a thirty-five-year payout period, in exchange for complete area coverage, was the type of assistance the farmers needed to bring their unreachable star a little closer.

Although for some time funds had been less-than-adequate in these organizations, determination had never been lacking. The people who believed in this dream also believed in their ability to make that dream come true. They were willing to make sacrifices and to devote their time, money and effort to a cause which they were determined would not fail.

They did *not* fail. Thirty-five years ago, only ten percent of America's farms had electricity, while today ninety-seven percent of those homes have electrical services. Oklahoma's cooperatives alone serve almost two hundred thousand customers and the average monthly kilowatt-hour consumption is now almost 800 per member. Despite all these advancements, one figure continues to drop as RECs serve larger areas and more people. Average rates per kilowatt-hour have fallen from 4¢ in 1946 to 2.06¢ today. This amazing decrease in the cost of electricity can be attributed to the REC's policy of returning profits to its consumers in the forms of refunds and low rates for cooperative services.

In these ways, REC's have given the rural citizens their dream homes with completely modern conveniences in the country, the ideal atmosphere for *really* living. Now anyone who can afford a home in town can have the same type of home in a place where there is room to enjoy life while RECs provide *time* to enjoy life.

New electrical inventions have given the rural citizen more leisure hours. What was once every-day drudgery requiring hours of work can now be handled in minutes by machinery which is electrically operated. A farmer and his wife can now have any time-and labor-saving device that is available to the urban couple. And thanks to Rural Electric Cooperatives, after-dark activities are no longer limited to those which can be done by candle or lamp light. The same color television sets, radios, and stereos that can be seen in homes in town are now visible in rural homes as well.

Because of Rural Electric Cooperatives, disadvantages are no longer a part of country living. Only in the advantages can we see the differences between urban and rural life. Rural citizens have enough space to truly thrive as human beings. They have been given the opportunity to appreciate the part of God's world that they love, and to live there with the knowledge that their love for the freedom and space of the country cannot be marred by lack of any convenience or necessity.

Finally, rural citizens have reached their unreachable star, their impossible dream. They had a quest—to reach that star, no matter how hopeless that quest seemed or how far away that star appeared. With a great deal of effort, determination, and perseverance, the rural citizens have realized their dream, and thousands of people have learned that country living is *really* living—if you're lucky enough to be living in REC country.

#### A DEDICATED PUBLIC SERVANT

Mr. DOLE, Mr. President, an article written by Bill Moore and published in the Kansas City Star of June 10 gave me a great deal of pride because it featured a Kansas product, Mr. C. I. Moyer, who is now serving in the role of regional director of the Small Business Administration in Kansas City.

The Kansans who know "Cy" Moyer are proud of the excellent record he has made in this important agency, and the personal interest he has taken in improving the lot of many, many small businessmen in our State.

As the article points out, "Cy's" performance as a high-ranking official in SBA has gained for him the deserved respect of leaders of both major political parties because he has placed the interests of the public above that of partisan considerations.

I ask unanimous consent that the article entitled "Small Businessman an Old Farm Boy" be printed in the RECORD.

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

#### SMALL BUSINESSMAN AN OLD FARM BOY (By Bill Moore)

One of the things C. I. Moyer likes about his job is that his regular paid staff is augmented by about 200 gung-ho volunteers who stand by, ready to spring into action at a moment's notice and pull off a piece of work for his agency.

Moyer is regional director of the Small Business Administration; offices high up in the old Federal Office building at 911 Walnut street, with what would be a wonderful view from his window except that it looks straight into the back side of the big new Commerce Tower.

Mr. Moyer is a most friendly fellow and I have known him or at least known of him since his old political days out in Kansas and if I knew how to spell it I would set down his first name as it is known to all his friends. They pronounce his name as "sigh," which is, of course, a contraction of the initials, "C" and "I", but whether you would write it Ci, Si, Sy, Sight, or something else has never been determined.

As the federal government's Small Business man in Missouri, Kansas, Iowa and Nebraska, Mr. Moyer deals in money and is a man who is known to all the bankers and lenders, and a man to be consulted.

But money is a shadowy topic to me. All I know about money is that I have got a steady paycheck twice a month for a great many years and that the "deducts" keep getting larger. I am lost in talk of high finance.

I would rather say that almost 40 years ago I worked on a small newspaper in North Central Kansas and that there was a wheat farmer who dropped in once in a while to talk to the boss about politics. He wore blue denim overalls, blue denim shirt, and had a manner as though he was on the waw up. I figured he was. His name was Frank Carlson.

And I think it was about that time I began to hear about another young fellow, not a whole lot older than me, who was believed to be on the way up and already making quite a figure in Republican politics. His name was Moyer.

C. I. or CI if you prefer, originated on a farm between Severance and Highland, Kans., and at an early age took to serving on township boards and such. In those days, if my memory serves, a chief function of a township board was to see to it that the dirt roads were kept graded. I did a little grading myself in those days. It was a dusty job but not too demanding.

I suppose he must have been a Republican precinct committeeman. Anyhow with a law degree from the University of Kansas behind him and a farm and a record of community service as a power base, he got elected to the Kansas Legislature in 1938. Then he got elected to the Kansas Senate in 1940, served four years and made friends with everyone.

He was Ed Arn's campaign manager when Ed was elected governor in 1950 and again in 1950 and again in 1952. And in 1952, Cl Moyer was one of the big men in Kansas close to Gen. Dwight Eisenhower. And as state Republican chairman when Ike took over as President, Cl Moyer was indeed on very solid ground.

He was appointed regional director of the SBA in October, 1953. He maintained his home in Kansas (still lives in Fairway) but the step across the state line, for business purposes, was not a hard one. Cl always had a lot of friends on the Missouri side.

Cl Moyer rode out the Democratic years and now that we again have a Republican administration his situation couldn't look better.

The Small Business Administration has changed its complexion somewhat since Moyer took over the Kansas City office nearly 17 years ago. For one thing (and this probably was inevitable) the volume of loans which it has a finger in is more than 10 times that of 1953.

On the other hand the SBA has been getting out of the direct loan business. It is virtually out right now, Moyer says. What it does is tell the guy to go to the bank and borrow the money and the SBA will assure the bank that it will be safe enough just in case—just in the possible case—the guy won't be able to pay off as expeditiously as he hoped.

Of course, the loan client is checked out by the SBA before he is directed to the bank. The SBA tries to make certain that he's a reasonable sort of a risk.

The SBA does a lot of counseling with small business men these days; much more than it used to. If the small business man is having trouble the SBA tries to show him how he can maybe work himself out of it.

And finally those volunteers: They're members of the Service Corps of Retired Executives (SCORE, since the government is eternally searching for acronyms), and they are at the ready when it comes to giving management assistance to small business men in trouble. There's about 100 of these SCORE members in Iowa alone.

They serve pretty much for free, although it's said they are reimbursed for actual out-of-pocket expense.

Cl Moyer's grandfather homesteaded a tract of 80 acres which today is a part of the present 320-acre farm. On weekends you'll find our SBA man up there on the Doniphan County farm poking around among his cattle and looking down the corn rows.

#### MORE THAN 200 DAYS WITH NO ACTION IN THE FITZGERALD CASE

Mr. PROXMIRE. Mr. President, it has now been 204 days since I first wrote to the Department of Justice requesting an investigation of the Air Force's intimidation and firing of Mr. A. Ernest Fitzgerald. No action whatsoever has been taken.

There is no question that a crime has been committed. Title 18, section 1505, makes it a crime to "influence, intimidate, or impede" a witness who is appearing before a congressional committee. Section 1505 also makes it a crime to injure a witness who has appeared and testified. This is just what happened to Ernest Fitzgerald, the Air Force's cost-efficiency expert, before, during, and after testifying to the Joint Economic Committee about the huge cost overruns on the C-5A transport plane. He was threatened; he was intimidated; and he was fired.

Last Monday, the Assistant Attorney General in charge of the Justice Department's Criminal Division, Mr. Will Wilson, appeared before the Committee on Banking and Currency. Mr. Wilson told us the Justice Department plans no action until the Civil Service Commission completes its civil proceedings involving Mr. Fitzgerald.

Mr. President, this is obviously a very lame excuse. A few pointed questions quickly expose just how weak this alibi is. For example, suppose the Commission were to decide that Fitzgerald should be reinstated. What would the Department's decision then be on prosecuting? Or suppose the Commission finds that Fitzgerald is not entitled to reinstatement. What then? How would this affect the Department's decision? The point is that reinstatement does not expunge the crime, any more than a bank robber can expunge his crime by returning his loot, and therefore the Commission proceedings for reinstatement are totally irrelevant to any criminal prosecution undertaken by the Justice Department.

I put such questions to Mr. Wilson last Monday, and in each instance he refused to respond. In most cases, he failed even to offer any reason for his refusal to respond. "I refuse to answer that question" was a frequent refrain.

Mr. President, is this a throwback to the days of the Army-McCarthy hearings? Is the Justice Department taking the fifth amendment over the Fitzgerald case?

Mr. President, I ask unanimous consent that the questions I asked Mr. Wilson last Monday be printed in the RECORD.

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

1. Mr. Wilson, I have a few questions relating to the Air Force's intimidation and firing of Mr. A. Ernest Fitzgerald, and our correspondence over possible criminal prosecutions resulting from this. In your letters, you indicate that until the proceedings now underway before the Civil Service Commission are complete, the Justice Department will take no action in this case.

Just how are the Commission's proceedings relevant?

What does the civil case before the Commission have to do with the decision to prosecute under the criminal code?

What *exactly* does your decision hinge upon? What factors affect it?

2. Suppose the Civil Service Commission decides that Fitzgerald *should* be reinstated. What would your decision then be on prosecuting?

Or suppose the Commission finds that Fitzgerald is *not* entitled to reinstatement. What then? How would this affect your decision?

3. Let me direct your attention to the first part of code section 1505—the part which makes it a crime to "influence, intimidate, or impede" a witness who appears before a Congressional committee. I see nothing in this subsection which would require the government to show that the work of the subcommittee was "obstructed" before proceeding under this first subsection. Yet your letter of Feb. 18 states that this *is* a precondition. Can you explain this please?

Also, I'm particularly at a loss to understand how the Civil Service Commission action for reinstatement bears on whether

there was an effort to "influence, intimidate, or impede" a Congressional witness. Can you also explain this for us?

4. The original efforts by the Air Force to "influence, intimidate, or impede" Mr. Fitzgerald occurred in the fall of 1968—when Fitzgerald was warned that there would be "blood on the floor" if he testified; when Fitzgerald's tenure was revoked 12 days after he testified; and when a memo was circulated detailing 3 ways in which Fitzgerald could be fired 2 months after he testified.

Did the Justice Department investigate possible violations of section 1505 *then*? Why not?

Why, more than a year and a half after these incidents took place, have you told us that Justice Department action is still "believed inappropriate"? When would be "appropriate"?

You have told us that the Civil Service Commission proceeding prevents you from taking action now. But couldn't you have taken action *before* the Commission proceedings were begun?

5. Suppose the Civil Service Commission case is appealed from the hearing examiner to the full Commission. Does the Justice Department plan to await the outcome of that appeal before proceeding?

Or suppose the case is then appealed to the U.S. District Court—will the Department continue to stand idly by?

Can you give us a *specific* estimate *when* the decision will be made?

6. Your letter of Feb. 18 also stated that "certain individuals who may have material information regarding the Fitzgerald matter did not, to our knowledge, testify before the Subcommittee. These include Mr. John A. Lang, Jr., and Mr. Thomas H. Nielsen."

Why is *this* relevant? What does whether "certain individuals" testified at a hearing of the Economy in Government Subcommittee have to do with your decision to prosecute or not?

Has the Department of Justice questioned Mr. Lang and Mr. Nielsen?

7. Your letter of Feb. 18 also notes that to establish a violation of the second part of section 1505 (relating to "injury" of the witness), the government would have to show that Mr. Fitzgerald's firing was "on account of" his testifying before Congress.

In your opinion, what kinds of facts would suffice to establish this link? What would you be looking for?

Don't you think the fact that Fitzgerald was warned there would be "blood on the floor" if he testified, coupled with the fact that his tenure was stripped just a few days after he testified, coupled with the fact that 2 months later a memo was circulated at the highest echelons of the Air Force detailing 3 ways in which he could be fired is sufficient to warrant at least the convening of a Grand Jury to look into this case? What more would you need to have sufficient grounds for an indictment in this case?

8. An earlier letter from you referred to an Air Force investigation of Mr. Fitzgerald's dismissal.

Is the Air Force investigation now complete? Have you been furnished with a copy of it?

Can you please furnish this Committee with a copy of the Air Force investigation and any accompanying reports.

#### WHAT ELSE IS HAPPENING AT THE UNIVERSITY OF CALIFORNIA

Mr. CRANSTON. Mr. President, since the 1964 eruption of the free-speech movement at the Berkeley campus, the University of California has suffered from an image problem. Its unprecedented growth and its academic achieve-

ments have been overshadowed by the magnitude of campus disturbances. The public's once-enthusiastic support has diminished with each new outbreak of violence, and many have predicted the demise of the university as public reaction to student unrest is demonstrated by voting down vital bond issues and withholding tax dollars.

Furthermore, the rash of mass demonstrations and riots in this decade has worked to discredit the vast majority of students who do not engage in violence, who do not destroy public property, who value their education, and who seek reforms constructively through legitimate channels.

I would like to call to the attention of my colleagues a speech delivered by Charles J. Hitch, president of the University of California, before the Commonwealth Club of San Francisco on May 29, 1970. President Hitch addresses himself to the university's "image" problem by pointing out all the laudatory accomplishments of the university and its students in the years since the free-speech movement first hit the national headlines.

Mr. President, I ask unanimous consent that the text of the address by President Charles J. Hitch, entitled "What Else Is Happening at the University of California," be printed in the RECORD.

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

WHAT ELSE IS HAPPENING AT THE UNIVERSITY OF CALIFORNIA

Members of the Commonwealth Club: It is a privilege and a pleasure for me to be at this distinguished forum. Frankly, I have been on the listening end of quite a few remarks about the University these past few weeks, and it's rather a relief to be on the speaking end for a brief time. It's also a welcome opportunity, and one for which I am most grateful, to say some things that I believe are important and need saying about the University of California.

Like many other institutions of higher education, the University of California has experienced an appreciable amount of student unrest in recent years. This fact has created at least two difficult tasks for university administrators. The first is to deal as effectively and fairly as possible with the unrest itself. The second is to cope with problems arising from the institutional image that the unrest tends to create.

The University's image is in many ways as crucial as its reality. The essential support of the legislature and the general public is based in large part on the image they have of the institution. For some years the image was an outstanding academic institution with a fine football team. Then, for awhile, the image was an outstanding academic institution with a miserable football team—but the public charitably overlooked the poor football and continued its support. Today, the image has come to focus so sharply on student unrest that the other part of the picture—the outstanding academic institution—is almost lost to view. And the consequences in terms of public support and thus continued well-being are all too predictable.

In his contribution to our new volume of centennial essays entitled *There Was Light*, Daniel Koshland, Jr., comments:

The critics of the University always seem like the blind man with the elephant—they grab one part of its enormously complex structure and believe that is the whole.

Well, my job today is to bring you the rest of the elephant—no partisan political symbolism intended. In short, I want to try to bring image and reality closer together by telling you what *else* is happening at the University of California.

First, some broad indices. I've selected the five-year period from the academic year 1964-65 when the Free Speech Movement erupted, to 1968-69, the most recent year for which we have final figures. You may recall that the gloomier observers of the FSM scene predicted it would lead to the demise, or at least the serious decline, of the University. Certainly those first tumultuous events had their impacts on the University, for good and ill, but demise or decline was not among them.

In the fall of 1964, University enrollment stood at 71,000 students. Five years later, it reached 99,000, an increase of 28,000 students. During that five-year period the University launched three entirely new general campuses—San Diego, Irvine, and Santa Cruz—whose combined enrollments by the fall of 1968 reached more than 10,000 students. And, in response to the state's critical health care needs, the University established three new medical schools: at Davis, Irvine, and San Diego. I do not know of another university of comparable stature anywhere that has matched this record of growth. While I am not automatically equating great growth with progress, the absence of University growth would be the denial of a university education for thousands of our sons and daughters and grandchildren.

Despite predictions of a mass faculty exodus, the total instructional staff grew from 6,700 in 1964-65 to 9,100 in 1968-69, a staggering record of recruitment and retention in a period of sharp competition. Of course we can't claim the entire credit for holding our faculty—some credit is due the negative effects of the growing evidence that other major institutions no longer offered attractive sanctuaries from social turmoil. I have often thought about the few faculty members who did leave Berkeley because of the student unrest here, and how they must have felt the past year or so their new institutions: Harvard, Columbia, Cornell . . .

During five years of the most concentrated student unrest and protest in our history, educational accomplishment at the University of California has forged steadily ahead—as witness the granting of a total of 93,330 degrees on our campuses over that period. Private gifts and endowments have risen steadily.

What about measures of quality? Admittedly, the quality of an academic institution is more difficult to gauge. But there are enough different kinds of measures to suggest the level of quality of the University over the past five years. In 1966, for example, the American Council on Education announced the results of its two-year study of graduate work in 106 major American universities. The study found the Berkeley campus to be "the best balanced distinguished university in the country." I would be very surprised if its ranks is significantly different now. A further indication of Berkeley's graduate strength is the number of doctoral candidates this campus continues to attract from around the world. A 1968 study by the National Academy of Sciences showed Berkeley to be the nation's leading producer of academic doctoral degrees.

The University of California faculty now includes the largest group of Nobel Prize winners in the world—a total of 14. Eleven of the Nobel Laureates are at Berkeley.

The University of California now holds first place in number of faculty invited to membership in the prestigious National Academy of Sciences, and is second only to Harvard in faculty membership in the American Academy of Arts and Sciences, one of the

nation's oldest and most distinguished learned societies.

Direct measures of undergraduate quality are harder to come by and I am well aware of the criticism that we slight undergraduates. But I find it impressive that year after year more National Merit Scholars choose to enroll at the University of California than at any other institution in the United States.

I hope these broad indices will begin to give you some sense of what else has been happening at the University over the last few years. At the risk of boring you—the reality is never as dramatic as the image—let me mention a few more illustrations.

Last year during the regrettable People's Park controversy some persons criticized the University for lack of concern about open space. In that same year the University added its twelfth reserve area to our Natural Land and Water Reserves System, a program created by The Regents to preserve diverse types of terrain and forms of life throughout California for teaching and research before they are overrun by the state's explosive population growth.

The University is occasionally charged with not being relevant. I might mention just one of our more relevant programs, Project Clean Air. This is a massive applied research program which we hope will involve scientists on all our campuses in a concerted attack on California's air pollution crisis.

While some of our students and faculty are concentrating on the planet Earth and its problems, others at Lick Observatory have been focussing on the moon. They succeeded in bouncing back a laser beam from a reflector left by the Apollo 11 astronauts, thus gaining greater accuracy in measuring the moon's distance—a great aid to geophysics and lunar physics.

Contrary to some popular opinion, our scientific faculty also focuses on classroom work. From many such examples I might mention Professor Joseph Mayer of our San Diego campus, who last fall received the American Chemical Society award as Outstanding Teacher of Chemistry, or Professor Sydney Rittenberg of our Los Angeles campus, to whom the American Society of Microbiology presented its 1969 award for outstanding teaching of microbiology to undergraduate students and for encouraging them to subsequent achievement.

And the art of teaching evidently interests our students as well. This spring, University of California students once again led the entire nation in the number of Woodrow Wilson fellowships awarded to outstanding seniors who plan to become college teachers.

Students are often criticized these days for not working within the system for a better world. Well, they do. You may have heard of the University of California's record as the nation's outstanding producer of Peace Corps members. But perhaps you didn't know about the Santa Barbara students—I mean the 3,000 who have donated a total of 160,000 hours to such community service projects as tutoring, providing hot breakfasts for pupils from poor families, taking youngsters on camping trips, helping an Indian tribe build a water system, and working with handicapped and mentally disturbed children. Perhaps it hasn't come to wide public attention that Riverside student government leaders donated their entire stipends for official duties this year to help finance student-sponsored community service programs. Or that the Davis campus students called Davis Amigos again this year gave up their spring vacations—this time to help build a health clinic and a storehouse at a migrant labor camp in Yolo County. Or that Berkeley students have helped raise funds to provide scholarship assistance to more than 1,100 low-income and minority students under our

Educational Opportunity Program since 1966.

These are the kind of students and faculty and programs the people of California are supporting with their tax dollars. These are the kinds of people and programs that will suffer if those tax dollars are curtailed or bond issues disapproved because of public reaction to student unrest.

And now, having described some of what else is happening in order to provide perspective, let me turn to the specific subject of student unrest. I want to share some of the facts and impressions that have come out of our experiences to date and tell you about the measures we are taking to maintain the effective operation of the University.

First, what is broadly called student protest usually does take place on or near a University campus but often involves many other persons besides University students. Sometimes students are in a small minority—only one-third of the persons arrested in the People's Park controversy last year were students. Yet the event is rather uniformly attributed to the University community. I suppose as a practical matter there is little we can do about this except to keep reiterating the facts.

Next, I want to comment briefly about the special case of violence, which is actually and fortunately a quite limited aspect of student protest. There is a very small group—most of them so-called street people rather than students—who seem from the available evidence to pursue violence for the sheer sake of violence. They are a group that seem frighteningly alienated from society. This alienation is a subject for sober concern, but it is only peripherally a part of my subject today. Another very small group has become sadly evident in recent months—rock-throwing juveniles who seem to be playing a kind of "for-real cops and robbers." Some of the children who have been apprehended on campus are only fourteen years old—a few, only thirteen. Unfortunately, these children have made some incidents substantially worse—their rocks are quite as capable as anyone else's of cracking windows and even bones. Finally, there are some students and non-students—and again the number is small—who have used violence either as a deliberate tactic to gain a specific end or whose momentary frustration at the failure of other tactics may lead to violence during emotional demonstrations.

We have three general recourses against the commission of violence. One is civil law enforcement—and a number of persons, including students, have paid civil penalties including jail sentences. Another recourse, if the violent individual is a student, is University discipline. And we have severely disciplined some students—I want to return to the discipline question a little later. Finally, there is the recourse of strong community disapproval (I mean the University community)—and this, surprisingly, much more effective than you might think. During mass meetings of students and faculty at Berkeley the past several weeks, the audience has decisively shouted its disapproval of speakers who proposed violent action to oppose the government's Cambodian operation. And I think the realization that the vast majority of student protesters would strenuously oppose such attempts has been a major factor in the relatively violence-free form of student protest during these tense recent weeks at Berkeley. Now I want to turn from the special case of violence to the main body of student protest. Up to a month ago student protesters have been a minority of college and university students. But they have often included some of our brightest and most highly motivated young people—what *Fortune Magazine* has called our forerunners. These student protesters have felt deeply about specific issues which they believe involve injustice or other so-

cial ills, and particularly about Vietnam and about racial inequality and poverty at home. Most of these students do not propose tearing down the democratic system but rather making it work as ideally as it should. But their idealism coupled with their impatience and dedication have not always made life easy on campus. I very much appreciated a little story I came across the other day, about the professor at the London School of Economics who was heard to remark to a colleague during a protest there, "You'd never believe that a group could be so dedicated and saintly and such a terrible nuisance."

While the main body of student protesters has pressed its causes in non-violent ways, the tactics have sometimes been disruptive and in violation of University regulations.

Our response to student protest has varied with the circumstances. In some cases we have found that the students had a legitimate cause for complaint about University matters, and we have sought to be responsive to these complaints. More often the protest activity has been on campus but the target has been an off-campus issue. In all cases we have insisted that on-campus dissent be expressed within the bounds of civil and University regulations. When violations have occurred on campus, we have imposed discipline as fairly as we knew how to do so, and as firmly or flexibly as the circumstances appeared to warrant. I honestly don't know what else we could have done or can do now about student unrest.

Our disciplinary measures range from warning and censure through dismissal from the University, and I am sorry to say we have found it necessary to resort to the most drastic penalty of dismissal in some 65 cases over the last two years alone, with a number of other possible dismissal cases still in proceedings. Dismissal means that the student is barred indefinitely from the University. In addition, many students have been suspended for definite periods ranging from two weeks to a year, and many more placed on interim suspension and probation, which are very effective penalties.

Our disciplinary measures are intended to remind the student of his obligations to respect the law and to assure that the educational functions of the University may go forward—I hope my earlier account of University achievements will indicate that this goal has been met. I am surprised and disturbed by the vehemence and vindictiveness of some of the proposals I have received for handling student discipline. We have sought to handle our disciplinary cases with firmness and fairness, remembering always that these violators are not some foreign enemy but our own sons and daughters and the generation that will soon succeed us in assuming the obligations of our society.

I might mention a special difficulty we encounter in maintaining discipline, and that is a kind of double standard that exists today about respect for the law. The public is quick to demand stringent punishment for campus violations. Yet unlawful acts seem to be tolerated and go unpunished in many other arenas of our national life—from illegal strikes of postal workers and air controllers to Indian occupations of Alcatraz to violations of court injunctions by southern governors and California teamsters. I am not arguing that all these actions should be dealt with harshly—merely that the same degree of patience and restraint used in other instances might with equally good reason be extended on occasion to our campuses. For, as columnist Vermont Royster commented ruefully the other day in the *Wall Street Journal*:

... while we are drawing up our indictments of the younger generation, we ought to berate them most for following the parental example.

Now I want to take up very briefly the situation on our campuses today, which is

different from past student protest in several very important respects. First, it involves what is no longer a minority but a clear majority of the academic community—engineers as well as humanities students, athletes as well as student government officers, sorority and fraternity members and many other student groups that have not until now been activists. The Cambodian operation and the shock of Kent State and Jackson State have galvanized a broad cross-section of the campus population.

A second marked difference is that this broad cross-section is more moderate in its tactics, and determined to prevent violence—although whether they can be totally successful in such a volatile atmosphere depends on day-to-day developments both locally and nationally.

Thirdly, the tactics have taken a major change in direction—from picket lines and other demonstrations to a massive attempt at community and political action. The moderate students have been saying all along that the system can be made to work and to respond—now they are out to prove it. And whether or not we agree with their particular points of view, I think it is essential that we respect and encourage this approach. For example, students in a number of different fields at Berkeley and Stanford and other institutions have been trying to set up discussion meetings with their counterparts in business and the professions. "We're not trying to get signatures on petitions or that kind of thing," one of the students told me the other day. "Just a chance to tell people in offices and plants how we feel about the issues—a kind of 'free speech on the lunch hour.'" If you are offered an opportunity to meet with students, I hope you will accept. For you need to know their views—and, equally important, they need to know yours.

At the University of California, as at most universities, we are trying to be generous and flexible about student academic work and grades this quarter. On an earlier occasion, in April of 1966, the University granted grades for the term on the basis of work completed to date and permitted students to leave to help with a community crisis—the San Francisco earthquake. The events of the past four weeks have amounted to a kind of societal earthquake on American campuses, and I believe fully justify some flexibility, although not the free ride of 1966.

At the same time we are insisting that faculty and staff members fulfill their contractual obligations to the University and to the students. We must not and will not permit the University to be used as an instrument of partisan political action. We know that some formal class structures have been altered. In some cases these alternatives are defensible and desirable. In other cases I am sure they are not. The Chancellors and I are in firm agreement that reported abuses must be promptly investigated and violations appropriately dealt with.

I happened to speak the other day to a Berkeley graduate who is currently a graduate engineering student at Stanford. He said he was taking an Incomplete, for this term but was learning much of value through his political action work. I said, "Yes, but about engineering?" And he replied, "A civil engineer has to learn to work with people. And I've learned more about working with people these past two weeks than I might have learned in years of professional training." I think no one close to the scene can doubt that this has been for most students a time of intense learning about their community, their nation, its institutions, and the obligations of citizenship.

I think too that no one close to the scene could help being impressed, as I am, with the vast majority of our university students today—their sincerity, their devotion to the values of justice and equality and peace, their commitment to work within a demo-

cratic framework they deeply believe in to correct its shortcomings. They may sometimes act more rashly, more stridently, more impatiently than is comfortable for the rest of society. They may and do make mistakes—as we also have done. But this is a generation that cares—and cares very deeply—about the future of its nation, its world, and its fellow men.

This, then, is what is happening at the University of California—the headline events and the steady day-by-day “what else” that make up the reality of the institution. It is as honest a picture as I know how to portray. And I hope most profoundly that Californians who have an opportunity to see the reality as well as the image will feel renewed pride in their state University of California.

#### THE ROCKY COURSE OF CRIME CONTROL—ADDRESS BY SENATOR PERCY

Mr. COOK. Mr. President, my good friend the senior Senator from Illinois (Mr. PERCY) recently delivered a speech to the National Council on Crime and Delinquency in Chicago. His subject was law and order—more specifically, law and order with justice.

As a member of the Judiciary Committee, I have had an opportunity to study some of the matters Senator PERCY raises in his remarks such as preventive detention and the allowance of no-knock warrants. I agree with the conclusions of the distinguished Senator that such measures are repressive, an overreaction to the crime wave of the 1960's, and inconsistent with many of the basic freedoms guaranteed by our Bill of Rights.

I commend Senator PERCY for both the insight and the courage which he has displayed on the occasion of this speech and at many other times during his tenure in the Senate.

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

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

#### THE ROCKY COURSE OF CRIME CONTROL

During the 1960's, the United States yielded ground in its battle with the criminal elements in our society. The statistics tell the story all too clearly: Serious crime increased seven times as rapidly as the population; the annual number of felonies committed in the U.S. actually doubled. By 1968, burglary was up 104 per cent over the 1960 figures; robberies grew by 144 per cent.

As a result of this proliferation of crime, our country is bordering on a state of national paranoia—bolting and double-bolting our doors; arming ourselves to the teeth against the uninvited, unwelcome intruder; insuring our lives, our homes, our furniture, our cars against the activities of those who may lay claim to possessions not rightfully theirs; scheduling our lives primarily in terms of what will afford us the utmost security.

We demand parking places close to our destinations. We avoid travelling unaccompanied. We take office work home rather than staying late at the office. Even though many movie and theater productions have earlier starting times, we attend them less frequently.

At nearly every point in our lives, we have had to compromise in order to ward off the threat of attacks by outlaws. This is a serious illness, one which saps the national vigor. It is a situation reminiscent of the

Old West, where everyone carried his weapon on his hip, and the local “gunslinger” was the dominant figure in each frontier town. It is a throwback to the chaos of the past, inviting all the horrors of vigilante justice, at the expense of fundamental liberties and civilized procedures of justice.

The people of this country are afraid, deeply unnerved by the restraints which have been placed upon them. And there is an extremely unfortunate facet to this sort of fear—one of its principal effects is to deprive us of our concern for others.

When an individual is afraid, he worries about only one thing—himself, number one. The poor, the oppressed, those whose lives have been torn by war, the imprisoned, the neglected and lonely—all of these are to be tended to later, if at all. Even justice itself takes a back seat. When fear takes over, one is prepared to use any means necessary to protect himself. Finally this brute force becomes master.

Because of the fear gripping this country, a great danger exists that attempts will be made to use the processes of criminal justice to advance the frantic hysteria for self-survival. If this were to be done, we would be pushing our systems of justice beyond the limits of their capabilities.

The best the law can do is set general standards and provide moral leadership for the nation. As John Dewey once said, “The law simply formalizes the mores of a people. If the mores and the law do not coincide, then the law is unenforceable.”

In certain areas of the law, you cannot place an affirmative burden on people requiring them to do good works. You cannot, for example, require by law that a person volunteer to assist another in distress. All you can require is that if a person assumes this responsibility, he must abide by certain minimum standards of conduct—those of the “reasonably prudent volunteer.” Basically, this is the type of standard the law can and must provide, and its direction is essentially moral.

If the law does not say that its goal is justice, each of us will pursue what we conceive to be justice, driven by our fear. If the law does not seek a certain morality, nothing else will provide that leadership for the people. And to provide moral leadership, the law cannot be immoral.

I am profoundly troubled by concepts such as preventive detention and no-knock laws. They are a response only to the frantic cry for self-protection and survival, and do not raise or react to the question of ultimate morality.

There is an excellent example, the District of Columbia Crime Bill. It was conceived as a fairly non-controversial court reorganization bill, which promised to bring some much needed changes to the D.C. court system. But the House added some other provisions after the bill had passed the Senate. These provide for: preventive detention, “no-knock” entries, the assessment of attorney's fees against a successful plaintiff who sues a policeman for false arrest, appeals by prosecuting attorneys of points of law during the course of a trial and, if the judge were to permit the appeal, the postponement of the trial or the declaring of a mistrial, the shifting of the burden of proof from the authorities to a juvenile to demonstrate that he is capable of rehabilitation and therefore should not be tried as an adult.

Beyond the rather technical legal problems that these concepts raise, it is clear that they have a common thrust—repression. If they become law, they may well destroy many of the principles essential to justice and a free society.

The “no-knock” provision alone deviates sharply from the long-established principle that a man's home is his castle. It authorizes conduct by the state not dissimilar to that of a common burglar at least as viewed by the home occupant.

Public willingness to waive fundamental rights in order to enhance individual comfort is not an isolated phenomenon. Many of us were shocked to read recently of the results of a poll conducted by CBS News, in which 1,136 typical Americans were interviewed on the Bill of Rights, as applied to current situations. Here are the disturbing findings of the CBS poll:

Five of the 10 Amendments, half of the basic guarantees of freedoms, were rejected by those interviewed.

76 per cent favored outlawing protest against the government even where there was no danger of violence.

58 per cent said the police should be allowed to hold people in jail before they gather evidence.

58 per cent voted against the double jeopardy standard, saying that if a man were found innocent of a crime, but new evidence were subsequently uncovered, he should be tried again for the same crime.

These are not legal debating points. I am talking about basic constitutional freedoms, rights that from the birth of this nation the people have prized and cherished, indeed shed blood to protect. But now, because of a great national fear, many Americans seem willing to sacrifice these rights. It is a frightening prospect.

I am not suggesting that the law is beyond revision. It is far from perfect. But I am insisting that in making changes in the criminal law we must first be aware that crime is the result of a thousand factors, converging on one person in one place at one point in time. We must understand the effects of fear on society, and seek as diligently and dispassionately as possible to find the real answers and the genuine moral imperatives. If we do not, we will abuse the power entrusted to us as a society and abrogate the rights of our fellow men.

A devotion to order in a democratic society is not the exclusive interest of advocates of backlash and reaction. But they seem to have so preempted the discussion that anyone speaking in defense of justice and individual rights appear to be condoning violence.

I can assure you that I yearn for law and order as deeply as anyone else in this country. I am unwilling, however, to sacrifice freedom and justice to reach this goal.

In our democracy, the function of law is to insure liberty. When the law fails, injustice results. When we permit the law to be nothing more than an expression of outrage or a reflection of hysteria, we infringe upon liberty and promote injustice.

Addressing several thousand young people on the steps of the U.S. Senate recently, I said:

“Violence is a form of self-indulgence, providing monetary release at the expense of the long-range aspirations we share. Violence: arson, damage to life and property—should be condemned and treated as the criminal acts they are, whether it be the wanton destruction of a scholar's life work or the death of innocent student bystanders. It can only lead to further polarization of this already battered but still great nation, and destroy our opportunity to represent your views effectively.”

All of us abhor violence and lawlessness because they restrict our liberty and threaten our lives and security. But repressive laws have the same cumulative effect. We should reject them with the same intensity.

#### CONCLUSION OF MORNING BUSINESS

Mr. CHURCH. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

AMENDMENT OF THE FOREIGN  
MILITARY SALES ACT OF 1970

Mr. CHURCH. Mr. President, I move that the Chair lay before the Senate the unfinished business.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

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

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

The motion was agreed to and the Senate resumed the consideration of the bill.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HRUSKA. Mr. President, the Senate has spent a good deal of time discussing the proposed Cooper-Church amendment to the Foreign Military Sales Act, to the detriment of a considerable amount of other pressing business. There is no doubt a body of opinion which would question the value of such lengthy debate on an issue which might well be moot by June 30 when the President has promised to have all American troops out of Cambodia.

Our concern with this proposal, of course, has some immediacy, but it also is directed to the proposition's serious long-range implications which may well bear heavily upon our international relations in years to come. In light of its long-range implications, passage of the proposed amendment would be a grave step and must be carefully analyzed to determine whether it really achieves any worthwhile objectives, or whether it perhaps does considerable damage to our pursuit of peace throughout the world.

It is my intention this afternoon to discuss the proposed amendment in the framework of five major points:

First. Passage of the amendment would be a serious mistake. The reasons should be apparent: It is folly to disclose our defense perimeters and endanger our forces by self-imposed and openly declared tactical limitations; our image and leadership role in the free world would be seriously compromised; our actions would constitute a grossly unfair reflection upon the first President in 10 years to reverse the trend of the war and make some tangible progress toward bringing it to an orderly and satisfactory conclusion.

Second. The second question to be discussed is why we are taking this action. Are we piqued because we were not consulted? Had we been consulted, it is likely that this body would not have approved; and, of course, had the action not been approved or had the Senate debated it at any length, the results indicate either event would have been a tragic mistake.

Third. The President has consistently had the support of the American people in his actions to end the war.

Fourth. What would happen if the President's critics seemingly had their way and our troops were pulled out peremptorily?

Fifth. The insidious and deplorable insinuation that supporters of the President's policy, and the President himself, are prowar, rather than antiwar.

To return now to my first point, passage of the proposed amendment would be a serious mistake because of the tactical straitjacket it would wrap around the President. One does not have to be a military expert to recognize the utter folly of outlining to one's opponent the perimeters of his defense and the limits to which he will respond.

In my opinion, such tactical limitations are the greatest disservice we can do to our valiant troops who are serving in Southeast Asia. Have we not seen the unhappy consequences of an announced limited response too often and for too long in Asia. I refer to the Korean war where we suffered countless casualties from air strikes emanating from sanctuaries which we were unable to attack. We could recall the same difficulties in Vietnam, where for years our troops faced the inability to pursue the enemy into neighboring countries and clean out their base of activities.

If President Nixon's action and intent in sending troops into Cambodia had been a part of our tactical pattern years ago, it is conceivable that our troops now would be out of Vietnam.

When President Eisenhower ended the fighting in Korea and exerted our might elsewhere in trouble spots around the world, he did not tell the opponents how far he would go. It is safe to say that at no time did he have any intention of using nuclear weapons, but he recognized that it would remove an element of his tactical and ultimate superiority if he announced the fact to the enemy, and he never did.

Unfortunately, this is precisely what is proposed in this amendment—the removal of some of the President's tactical weapons—the element of surprise and uncertainty. We are taking away or proposing to take away one of his most valuable tools, and we are thereby making his task much more difficult to accomplish.

The next danger in passage of the proposed amendment is the danger to our image and leadership role in the free world. The President of the United States, the symbol of the free world—and savior in the eyes of many countries would have his hands tied by this amendment.

The impact of that action surely would not be lost upon the peoples of the free world.

One day last week the junior Senator from Mississippi (Mr. STENNIS) commented on this aspect of the impact which the adoption of the pending amendment would bring about. The junior Senator from Mississippi has been here more than two decades. His very signal and outstanding service, particularly in the field of armed services, both

legislatively and in the appropriation process, are well known. He has acquired a knowledgeability, expertise, authority, and authenticity in that field which should be highly regarded by all.

In commenting on the adoption of the Cooper-Church amendment, the junior Senator from Mississippi stated during the course of his remarks:

But in the event the Senate should adopt it, I believe it would prove to be a mistake; that just that much would be an injurious precedent. The injury would start flowing to us immediately. It would start more quickly than on the battlefield—in the embassies and the chancelleries and with the heads of government all over the world, both friend and foe. It would be unprecedented that a responsible body such as Congress, when we are in this predicament, would try to restrict, by words and limitations, the authority, the judgment, and the discretion of the Commander in Chief.

I think there would be great glee around the council tables of our enemies, our adversaries, and those who are not in sympathy with us and against us, and it would be a victory for them. I think we would immediately start taking a downward turn in any chance to get a settlement, a reasonable settlement of any kind, in this unfortunate war. I believe it would create doubt among our friends. But I am more concerned about the formidable strength and determination it would give to our adversaries, to keep up their plan to continue this war as long as they can, with as much cost to us as they can. Every day they are able to do that, it is a victory for them. They do not expect to annihilate us and to overrun our armies. They want to take a toll of a different kind.

Mr. President, it is said that it would be a precedent and that it would set a precedent. We can recall the words of Edward S. Corwin, in his book, "The President—Office and Power, 1787–1957," in which he made this statement:

Actually, Congress has never adopted any legislation that would seriously cramp the style of a president attempting to break the resistance of an enemy or seeking to assure the safety of the national forces.

The late President Kennedy, you may recall, had some very positive ideas on our leadership role and how it should be discharged. On one occasion he said:

The young idealists of the world who once quoted Jefferson and used our Constitution as a handbook of revolution are now turning elsewhere for leadership. We must recapture their hearts and their minds by projecting a true image of America abroad.

On another occasion he said:

We must encourage, not hamper, the tidal waves of nationalism sweeping into Africa and Asia, so that each emerging nation knows that America, not Russia or China, is the home of the Declaration of Independence.

There are few of us who would disagree with those poignant remarks, but it seems apparent to me that our restriction or attempted restriction of the President's freedom to resolve the Vietnam situation in his way is scarcely conducive to the image we seek to project to the rest of the free world.

The leaders of the world—and especially of the new nations—have their eyes on us, and our disposition of the Vietnam situation cannot help but have a major bearing for years to come in the way in which our cooperation and assistance are assessed by these nations.

Next let me say, Mr. President, that passage of this amendment would be an unfair reflection of a President who inherited this war, who has been doing an admirable job of making progress to bring it to a conclusion which will protect the objectives of the free world, and who is keeping every pledge he has made to the American people in the situation.

It has been repeated many times before, but in the heat of emotionalism, it still at times seems to be forgotten that President Nixon inherited this war. He stepped into a situation which for years had shown no signs of improving, and he began at once to make tangible progress. Whereas every action of the past two administrations had been to increase our troop strength and our commitments in Vietnam. He began to withdraw troops and began to take positive steps to achieve our original objective which was to secure the situation there and then place South Vietnam in command of its own destiny, to return the war and all that it means to its rightful owners, the South Vietnamese.

Whereas the two previous administrations increased our troop strength from a handful of advisers to an army of 543,482 men by April of 1969, President Nixon has successfully carried out in the past year a program of disengagement, on the strength and basis of orders which originated during the calendar year of 1968.

He reduced that number to 428,000 as of the first of this month, a cut of more than 115,000 men. He has pledged to withdraw another 150,000 by the spring of 1971, and the most recent declaration on his part, on the third of this month, embraced an acceleration of that withdrawal attempt.

He has throughout these actions kept the American people fully and candidly informed, and he has kept every pledge he has made to them in this regard. We have no precedent for thinking that he will fall now to keep his pledge to remove our troops from Cambodia. If there were any reason to think that he is not going to live up to his bargain, there might be justification for this amendment, but we have no such reason and we have no such justification.

It seems strange that this move to impede and obstruct the efforts of the President is being made at this time, when we are disengaging at a constant rate, and against this President, who is the first one to reverse the trend of the war since 1963.

Where were all these opponents when Presidents Kennedy and Johnson launched thousands and hundreds of thousands of Americans into the fray? Why was there no effort then to restrict their policymaking activities, and their tactical as well as strategic activities and decisions?

Congress, as a matter of fact, affirmatively authorized in August of 1964 the taking of "all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression." This was by adoption of the Tonkin resolution, by a vote of 414

to 0 in the House and 88 to 2 in the Senate.

The language in that resolution, also included the following language:

Consonant with the Constitution of the United States and with the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States, is therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member of protocol state in the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Each year since then the Congress has reaffirmed that resolution by processing and enacting into law the appropriation bills to fund the action in South Vietnam.

Recently, Roscoe Drummond, the very well known columnist, wrote in the Christian Science Monitor, under his column known as "Point of View," an article entitled "Must Congress Always Declare War?" The reason for it was to comment on the action by the Legislature of the State of Massachusetts, in which the question was raised as to the legality of the war in Vietnam. At one point, Mr. Drummond stated as follows:

It has always seemed to me that the best way to get the right answer is to ask the right question.

The Legislature of the state of Massachusetts is not asking the right question in the way it is seeking to test the legality of the war in Vietnam.

The reason is that its action is based on two erroneous premises.

One is that President Johnson did not take the issue of the Vietnam to Congress.

He did.

The other is that Congress never approved the President's use of American armed forces to help South Vietnam resist aggression.

It did.

So many people seem to forget—some conveniently because remembering undercuts their arguments—that it was President Truman who failed to take the Korean war to Congress, not Johnson who failed to take the Vietnam war to Congress.

He goes on to say that the Southeast Asia resolution, known as the Tonkin Gulf resolution, was passed in the House by a unanimous vote of 414 to nothing and in the Senate by a vote of 88 to 2. He refers to the text of the resolution, and then says:

President Johnson and President Nixon have acted at all times within the terms of this resolution.

Quite apart from the fact that in our federal system the national government alone possesses war-making powers, it seems to me that again the Massachusetts Legislature is not asking the right question, and at the very least not the exact question which may have to be answered.

Because many are unaware how precisely and fully Congress approved the U.S. combat role in Vietnam, let me quote the exact wording of the Southeast Asia resolution:

Mr. Drummond then proceeds:

And why did Congress authorize these actions by the president? It gave its reasons in its resolution in which it said that "The United States regards as vital to the national interest and world peace the maintenance of international peace and security in Southeast Asia.

From all this there can be no doubt that Congress acted to approve the American combat role in Vietnam. It approved it explicitly, completely, and almost unanimously.

The only unanswered question raised implicitly by the Massachusetts Legislature, but not spelled out, is this:

Is it unconstitutional for Congress to approve the president's use of American combat forces without tying that approval to a formal declaration of war?

My judgment is that the constitution experts would say that Congress does indeed possess this discretion.

My second point, Mr. President, is to ask why we take this action? Are we piqued because the President did not seek our advice before he made his Cambodian decision? A study of the conflict in Vietnam and its predecessor conflict in Korea would find dozens of examples of Presidential prerogative wherein much larger decisions in terms of impact were summarily made by Commanders in Chief with no more consultation than there was on this occasion. At those times in past years, have we responded by attempting to limit the tactical options of our Commander in Chief?

Further, had we been consulted before the President's action, would the Congress have approved our expedition against Cambodian sanctuaries? It seems to me most unlikely that we would have, and in the light of the results even the most consistent critics of the President would have to concede this would have been a mistake.

The second possibility is that if congressional approval were forthcoming, it would have been only after a long debate and a long delay which would have deprived the action in Cambodia of the elements of surprise and speed, which were so necessary to its success.

The President clearly laid out his reasons for his decision to capture and destroy the bases and their supplies, across the Cambodian border. Basically, it will be recalled, his reasons were these:

First. To protect allied forces now in Vietnam and those who will remain after our next withdrawal of troops.

Second. To assure continued progress in our Vietnamization program and the pace of withdrawals.

Third. To increase our chances of ending our involvement sooner.

Fourth. To impress upon the enemy that they cannot repeatedly ignore our warnings and escalate their attacks in Indochina as they have in Laos, Cambodia and Vietnam.

Fifth. Finally to forestall miscalculations in Southeast Asia and elsewhere around the world which could lead to dangerous confrontations in the future.

Our basic policy in Vietnam is unchanged. Our goal is to end American involvement by withdrawing Americans as quickly as possible, and to end the war as soon as possible.

Vietnamization, the training of Vietnamese to defend themselves and to enable them to take charge of the war, which is rightfully and properly theirs, is moving forward ahead of schedule.

Why was the President's action in invading Cambodian territory necessary? In the 10 days after his April 20 speech in which he announced additional troop

withdrawals, the Vietcong moved out of their Cambodian sanctuaries and threatened to form one long belt of military power along the South Vietnam border. Such action would have posed an unacceptable threat to American and allied forces in Vietnam, particularly those remaining when more troops are withdrawn.

The political situation also had changed. When Sihanouk was in power, we refrained from attacking the base areas because of Cambodian neutrality. With Sihanouk gone and the North Vietnamese thrusting out of the previous sanctuary boundaries, we faced the prospect of Cambodia becoming one large base area for attacks along the 600 miles of Cambodia-South Vietnam frontier.

The President's goal was to destroy or remove the enemy logistics system, facilities, supplies, and equipment.

As of today, here is the box score:

Enemy killed.....	10,021
Detainees.....	2,187
Individual weapons captured.....	17,721
Crew-served weapons captured.....	2,330
Rice (tons).....	6,454
Rice (man-months).....	283,976
Rocket rounds captured.....	40,932
Mortar rounds captured.....	62,481
Small-arms ammunition captured.....	13,287,473

That means 13 million fewer bullets, Mr. President, to fire at our U.S. troops. Continuing the statistics, also captured were:

Land mines captured.....	5,226
Bunkers destroyed.....	9,868
Vehicles destroyed or captured.....	396

Of course, all of us know that these stores, these structures, and this equipment were very hard to come by, and difficult to locate at the sites where they were found and either destroyed or removed. The difficulty arises because of the long distances involved in transporting them from their original sources, which, in the main, have been Red China and the Soviet Union.

These gains have been made at the expense of relatively light United States and Vietnam casualties. In return we have made it impossible for the enemy to use the Cambodian sanctuaries effectively for many months. The rainy season will delay any reconstruction or reinstallation, and all equipment and materials must be brought down from North Vietnam—a long and difficult task. This period of delay gives the United States and South Vietnam vital additional time to prepare the South Vietnamese to handle their own defense.

Our troops are already being rapidly withdrawn from what must surely be one of the most successful missions undertaken by free world forces in the entire Vietnam conflict. More withdrawals were announced yesterday, leaving only 12,000 men still in Cambodia.

Besides the tactical and strategic advantage which the mission has provided, we must not forget the message which our action has delivered to the entire world—that the United States will not play the role of a helpless giant.

My third point, Mr. President, is that President Nixon has consistently had the support of the American people in his

Vietnamization program. In the early days after the President's announcement we witnessed an amazing display of emotionalism on this issue. But even during that period, the Gallup poll showed that an increasing majority of the American public approved the way President Nixon was doing his job.

As the flush of emotions subsided, the tone of my mail began to change—and I understand that has been pretty much the pattern in the offices of other Senators. I would like to cite here a most interesting letter from a University of Nebraska student who displays the maturity of judgment which is overcoming the emotional outburst of the early days—that is, the days following the announcement of the invasion of the Cambodian territory. This young lady wrote as follows:

Last week I wrote you a hastily conceived letter opposing Cambodian invasion and the Vietnamese War in general. Since that time I have been doing some harder thinking as well as watching and listening to President Nixon more closely. Maybe he is doing the right thing. His plan of action in Cambodia does seem to be justified, and at the moment it seems to be working. At least it should be given time to prove itself. I am guilty of judging too quickly, and many others are sharing this guilt I am afraid.

Also in my letter of last week I specifically asked: What is wrong with an admitted defeat (in the war) and is it better than our country should suffer civil war? It seems that whether they are valid questions or not, they are representing only one side of the issue. I should have also asked whether the United States can afford to adopt an isolationist policy. Can the world ever be entirely peaceful, without any war? Can the United States afford to allow communism to spread unchecked? The United States may not be entirely right or humane in its foreign policy but who can say what is right or humane? Should we concentrate on "now" situations or possibly contribute to the freedom and rights of future generations?

By way of a final paragraph, this young lady wrote:

I don't know the answer to all of these questions and I don't know if there is an answer to all of them. I do know that for the present the United States seems to be in better shape than many agitators would like it to be. Freedom of speech and the right to dissent are perhaps stronger than they ever have been. I am grateful for this freedom and I hope no minority group manages to cut down rights to free speech through irresponsible acts. Also, compared to many places in the world, Latin America in particular, our current rate of inflation is almost negligible. The United States, in spite of many faults, is still the best nation in the world to be alive in today.

Again, and I sincerely mean it, thank you for listening.

That, Mr. President, was the letter of Miss Jizba, of Omaha, Nebr.

It might be noted parenthetically at this point that a student at the University of Nebraska, shortly after a campus demonstration attended by some 2,300 students, informed me that a vote was taken as to whether or not a student strike should be held; 1,300 said no and 1,000 said yes, so the issue was defeated. But the student who discussed the matter with me asked this question:

Senator, has it ever occurred to people that there are over 20,000 students on the Lincoln

campus of this University and that 18,000 of them were not at the demonstration?

They were either in their study halls, the lecture halls, the libraries, or elsewhere, doing what they set out to do when they went to the university—namely, to acquire an education.

Of course, the point has been made here many, many times that there is a total of some 7 million students in our colleges and universities, so that the proportion which has participated in the violent demonstrations, the undesirable demonstrations, and protests has been very, very small, indeed.

Mr. President, in my opinion the young lady who wrote to me said very eloquently what we ought to be hearing more of in this Chamber, rather than spending our time in an unhappy and damaging effort to tie the hands of the President in the conduct of the war in such a fashion as to bring about its honorable and effective termination.

My fourth point is to ask, suppose President Nixon were to do exactly what a large share of his critics apparently would wish—and that is to withdraw all American troops right away, what might happen?

It is not difficult to draw a fairly accurate pattern of what would happen. We have seen the Communists operate in too many nations to have any serious doubt as to the consequences of such action.

I would like to repeat a point made so well by the Senator from Utah (Mr. BENNETT) on May 20, when he discussed this matter in this Chamber with such commendable eloquence that it deserves this added reference. He quoted a statement by the Red Chinese Minister of Defense in September of 1965, which announced that Mao expected to use "wars of liberation" to expand communism to Latin America, Africa, and Asia.

He then quoted a statement by General Giap, the Commander in Chief of the North Vietnamese forces. This statement said, among other things:

South Vietnam is the model of the national-liberation movement of our time. If the special warfare that the United States imperialists are testing in South Vietnam is overcome, then it can be defeated anywhere in the world.

At that point, the Senator from Utah listed 19 countries which have been taken over by the Communists in this fashion, or are currently under Communist siege. If we allow Vietnam to suffer a similar fate after our years of intensified efforts there, we can easily see what is in store for the other small nations which are under siege and still others which are on the Communist schedule of world domination.

It seems inevitable that under such circumstances we would see increased emphasis upon terrorist tactics, because terror is an essential ingredient in nearly all Vietcong programs. In fact, current intelligence estimates are predicting an increase in terrorist tactics such as those that produced the atrocities which occupied the front pages a few days ago.

Douglas Pike, a veteran Foreign Service officer now serving with the U.S. Information Agency in Japan, has done a lengthy study on Vietcong terrorist tac-



tics. He cites the city of Hue as an example of Communist dependence upon terror as a cold, preconceived military tactic. It is a part of their policy, their official policy. He wrote as follows:

The city of Hue is one of the saddest cities of our earth, not simply because of what happened there in February, 1968, unthinkable as it was. It is a silent rebuke to all of us, inheritors of 40 centuries of civilization, who in our century have allowed collectivist politics—abstractions all—to corrupt us into the worst of the modern sins, indifference to inhumanity. What happened in Hue should give pause to every remaining civilized person on this planet. It should be inscribed, so as not to be forgotten, along with the record of other terrible visitations of man's inhumanity to man which stud the history of the human race. Hue is another demonstration of what man can bring himself to do when he fixes no limits on political action and pursues uncautiously the dream of social perfectibility.

Mr. Pike, in his dissertation, then wrote that 12,000 Communists invaded the city on January 30, 1968, and they stayed there 26 days before they were driven out by military action. In the wake of this Tet offensive, 5,800 Hue civilians were dead or missing. It is now known that most of them are dead. The bodies of most of them have been found in the past 20 months, in single and mass graves throughout the province.

Let me summarize one other passage from his report:

The first discovery of Communist victims came in a schoolyard on February 26; eventually 170 bodies were recovered. In the next few months, 18 additional gravesites were found, the largest of which contained more than 200 victims. In all, almost 1,200 bodies were found in hastily dug, poorly concealed graves. At least half of these bodies showed clear evidence of atrocity killings; hands wired behind their backs, rags stuffed in their mouths, bodies contorted but without wounds—indicating burial alive. The other nearly 600 bore wound marks but there was no way of determining whether they died by firing squad or incidental to the battle. Among these victims were three West German doctors, a medical technician who was the wife of one of the doctors, and two French Catholic priests, one of whom was buried alive.

We all know this is the type of fate which awaits uncounted thousands of Vietnamese if our departure from that beleaguered land finds them unprepared to protect themselves. I know that this is something President Nixon has thought about. It is something all thoughtful citizens have thought about and we here in this body should consider it also.

The last point I would mention today is to deplore some of the interpretations which the press drew from the vote last week on the proposed amendment by the Senator from West Virginia (Mr. BYRD). I happened to be traveling the day following the vote, and I was greatly disturbed to see the headline writers describing the vote as a victory for antiwar Senators. I saw one quotation which described the episode as a glorious day for antiwar Senators. One of the wire

press services began its story on the vote in this way:

Anti-war forces seeking to curb future United States action in Cambodia have won a crucial vote on Thursday on the Senate.

Then it went on to describe what happened.

Even allowing some artistic license to headline writers and their colleagues who report the news, use of such connotations as antiwar and prowar to identify Members of this body is not only misleading but also deplorable.

To all those who would apply such terms to our considerations, I say: if there is a prowar Senator in this body, let us name him. I have yet to see one in 15 years of service in this Chamber.

It can safely be said that all of us want to terminate the war in Vietnam. The only question is, How shall it be done? What is the best way to do it?

We know that there are many Members of this body who believe that adoption of the Cooper-Church amendment will harm and delay termination of the war rather than accelerate it. There are others who hold to the contrary belief, but there can be no doubt that each and every one is desirous of terminating the war as soon as possible on terms which will be acceptable and honorable.

I might add that there is no one more antiwar than President Nixon. We should recall that he served in the hostilities 25 years ago in the South Pacific and by reason of that experience, and also by reason of his frequent visits to that part of the world, he knows the territory much better than most of us in this body know it.

There is no Member of this body or anyone else anywhere who is working one fraction as diligently and tirelessly as the President is to end this war. And he will get the job done, if we only provide him with proper and helpful support. That is the opinion of the bulk of the American people. They are supporting him. We should do so also.

If he were to follow the wishes of a certain segment of public opinion, and certain Members of this body, and remove all of our troops as fast as ships and planes could bring them home—if he did that, and the Communists moved in on the unprepared South Vietnamese with some of the same tactics to which I have just alluded, would these omniscient critics step up to share the blame for that result? I fear that they would not. On the contrary, I believe that they would then embark upon a severe denunciation of the result of those circumstances which would be brought about.

President Nixon has said he does not intend to become the first American President to lose a war. With the free world under siege as it is from Communist pressure everywhere, and with the tremendous investment in time, money and—most important—American lives, which we have in Vietnam, we can ill afford to cripple the ability of the President who is getting the job done that we went over there to do.

President Kennedy said in November 1963—just a week before his tragic death—that:

Our object in Vietnam was to bring Americans home, permit the South Vietnamese to maintain themselves as a free and independent country, and permit democratic forces within the country to operate.

More than half a million men were poured into Vietnam after that statement, and too many of them died and were maimed. The American people spoke their wishes in 1968. President Nixon has responded. He is getting our boys home. He is protecting our position in the world. He is protecting the other small nations who look to us for leadership and assistance in achieving democratic self-determination.

In closing, Mr. President, I should like to emphasize my belief that we should strengthen the powers of the President at this time and not take action which would serve to erode those powers.

I find myself in agreement with the language written by the distinguished junior Senator from Arkansas (Mr. Fulbright), who wrote in the 1961 Cornell Law Quarterly that:

The source of an effective foreign policy under our system is Presidential power. This proposition, valid in our own time, is certain to become more, rather than less, compelling in the decades ahead . . . it is my contention that for the existing requirements of American foreign policy we have hobbled the President by too niggardly a grant of power.

The Senator, whom we all recognize as one of our foremost experts on foreign policy, and certainly one of our most outspoken Members in this body, then concluded:

As Commander-in-Chief of the armed forces, the President has full responsibility, which cannot be shared, for military decisions in a world in which the difference between safety and cataclysm can be a matter of hours or even minutes. The President is the symbol of the nation to the external world, the leader of a vast alliance of free nations, and the prime mover in shaping a national consensus on foreign policy.

At an earlier time, 10 years before that—in the great debate in 1951 as it was known—he said on the wisdom of sending troops to Europe:

One important issue has been quite clearly defined. That issue is whether the President should seek the advice of Congress on the question of sending troops to Europe now or whether his discretion should be subject to the consent of Congress.

He then went on to say that:

The President does not agree that his decision in this matter must be subject to the approval of Congress. Personally, I agree with the position of the President . . . the Congress has the right and power to raise the Armed Forces but the President has the responsibility for the command of those forces. If in the exercise of his best judgment, the defense of this country requires the sending of troops to Europe, he has the power and the duty to do so.

He concluded by saying:

It would be dangerous for our future welfare to change the underlying principle simply because a strong minority of even a majority of the Congress may lack confidence in the wisdom of the Executive in some particular instance such as the present one.

There is a view of this whole subject expressed over a period of two decades.

Mr. President, we must remember that we should put this action in proper perspective. We ought to consider that we are a nation approaching 200 years as a republic and that the present Vietnam situation is not something that can be lifted out of context and put on a basis apart from the position and the constant traditional interpretation of our Constitution and of our national fashion in applying it.

In my opinion, Senators, the paper and advice given in that paper was good advice. It is advice that we would be well disposed to follow in our current considerations.

Mr. President, I yield the floor.

Mr. GOLDWATER. Mr. President, I thank my friend, the distinguished Senator from Nebraska, for having made another notable contribution to the discussion which has been going on for some time.

Mr. ALLOTT. Mr. President, I compliment the distinguished Senator from Nebraska.

It is too bad that the minds of the people who were speaking in that manner have changed and that those people have not retained their original thinking. It would have been a wonderful thing for the Senate.

The Senator from Nebraska has given a very brilliant speech here in support of the position that those now present on the floor have taken.

I compliment him on his speech.

Mr. President, one of the most gratifying aspects of the current debate on the President's role as Commander in Chief is the participation of learned and reflective citizens from every section of the Nation.

As we continue to explore this complex matter with proper thoroughness, I continue to receive numerous letters and memoranda from distinguished scholars. They are anxious to voice their support for the President's position in this current debate on the question of who is best able to set military tactics, and who is charged by the Constitution with the responsibility for setting those tactics.

Today I would like to share with Senators three more letters from concerned scholars.

The first letter comes from Prof. S. M. Brownell.

Professor Brownell is a member of the staff of the Institute of Social Science at Yale University. He is also a former U.S. Commissioner of Education.

Professor Brownell, like the President, is anxious to see an honorable disengagement in South Vietnam. But he does not think that objective can be achieved by reducing the President's traditional latitude in deciding on military tactics. Professor Brownell says this:

In my judgment the President, as Commander-in-Chief of the Armed Forces must be free to direct use of the Armed Forces, within established policies, to the best interests of the nation as he views the total national interest. In emergencies this may mean action prior to Congressional determination of policy, e.g., if the United States were attacked, action might be required before Congress could be convened to declare a state of war existed. During a military operation, as now existing under the Tonkin resolution, the Commander-in-Chief must

have the power and resources to deploy armed forces in what appears to him to be in the best interests of the nation. Citizens, and their representatives in the Congress, may appropriately voice their doubts about any given operation or series of operations, but always with the recognition (1) that they cannot have access to the full facts which are available to the Commander-in-Chief and (2) that in a war situation full disclosure of plans in advance serves to strengthen the enemy and weaken the chances of success of our national defense forces.

My own reaction to the situation in Southeast Asia is one of relief that the President has committed the United States to terminate its involvement in the fighting at the earliest date consistent with fulfillment of our obligation to help South Vietnam as a nation develop a government of its choosing and that he has committed us to systematic withdrawal of troops which will pull all United States troops out of Cambodia by June 30, and bring at least 150,000 home by May 30, 1971. This gives South Vietnam time to establish their government under the Vietnamization program which the United States has been pursuing. I wish the North Vietnamese would negotiate but recognize that since the United States has informed the world we do not intend to subdue North Vietnam by all-out war they may well conclude that they have more to gain by fighting until the United States forces leave Indo-China than by negotiating.

Mr. President, a second letter I want to call to the attention of the Senate comes from Prof. Walter F. Berns.

Professor Berns is a distinguished student of constitutional law, and has just completed a term as Charles Evans Hughes professor of government and jurisprudence at Colgate University.

Professor Berns can see no validity in the charge that the President is guilty of some sort of Executive usurpation. He says this:

In what, precisely, does this "executive usurpation" consist? The troops being there (and Mr. Nixon did not put them there), can it honestly be argued that the Commander-in-Chief has no authority under the Constitution to decide how and where they will be used? Can it honestly be argued that Congress is in a better position to decide as to their disposition? Can it honestly be argued that Congress is better able than the President to control the course of events in Southeast Asia and to make the appropriate response to what Hanoi does (and surely Hanoi will be able to affect the course of these events)? The answers to these questions used to be clear to most academicians, and I think you could perform a constitutional service by showing that arguments parading as constitutional arguments are really the political arguments of angry men, men willing once again to sacrifice the principle they used to defend in order to reap what they consider would be a political advantage, or to achieve a particular political result, and to do so without regard to the long-range consequences in the country. This country cannot survive, I think, if the President is to be denied the principal voice in foreign affairs and the tactical flexibility that every President has needed and, especially in the Twentieth Century, occasionally exercised.

Mr. President, a third letter of interest is from Dr. Raymond English.

Dr. English is a former chairman of the department of political science at Kenyon College. He is currently director of the social science program of the Educational Research Council of America.

Dr. English does not think there is

serious question about the right of the President to exercise discretionary power as commander in chief. He says this:

The President has long had the discretionary power to move and engage American armed forces to protect American lives and interests. President Polk precipitated the Mexican War by ordering maneuvers at the border; President Lincoln forced the seceding South into overt rebellion by ordering supplies to Fort Sumter. A book published in 1945 listed 149 episodes in which American Presidents moved or engaged American forces outside the United States to protect American rights of person and property. Such police actions are within constitutional and international law (See *The Constitution of the United States of America: Analysis and Interpretation*, prepared by the Legislative Reference Service, Library of Congress, Edward S. Corwin, Editor, U.S. Government Printing Office, Washington, 1953, page 488.)

Dr. English is very concerned about the possible reemergence of dangerous isolationists feeling in the United States. He says this:

The withdrawal of the United States into isolation or irresponsibility will not, alas, mean world-wide peace or even peace for the United States. Failure to keep our commitments and power in balance will mean sooner or later that the world power balance will tilt heavily against the United States. When that happens, it can be redressed only by extreme and drastic action, that is, by resort to all-out as opposed to limited war.

This prediction is not mere gloom-and-doom intuition. Three times in the twentieth century have the great powers of the "free world" drifted into weakness, isolation and internal anarchy. The first time was between 1900 and 1914. In 1911, for example, Lincoln Steffens guessed that Great Britain was on the verge of internal revolution. France was torn by Anarcho-Syndicalism. Britain refused to make firm commitments against possible German aggression. In 1914 came World War I.

The second crisis of self-confidence in the western democracies came in the 1930's. Marxism-Leninism and pacifism were favorite doctrines among the intelligentsia of Britain, France and the United States. One act of aggression after another passed unchecked: In Manchuria, Ethiopia, China, the Rhineland, Austria, the Sudetenland, The United States passed successive Neutrality Acts. In the fall of 1938, President Roosevelt more or less compelled Chamberlain and Daladier to capitulate to the Nazi conquest of Czechoslovakia. Von Ribbentrop informed Hitler that the western democracies were rotten and incapable of resistance to attack. In September 1939, came World War II; in December 1941, Pearl Harbor.

Dr. English warns that "the third crisis of self-confidence is now upon us, and he notes that the "parallels with previous episodes that preceded world wars are disquietly obvious."

In this regard, Dr. English is afraid that the world will draw unfortunate conclusions from the passage of any measure that restricts the President's traditional latitude as Commander in Chief. He says this about the Cooper-Church amendment:

I see it, as much of the world will see it, as a symptom of the decline of the spirit of patient firmness which has marked American foreign and defense policies since 1948. The passage of the amendment will, I believe, be regarded as an indication that the United States is abandoning its firm but flexible policy of responding to aggressions that shake and destroy the precarious balance of power in the world. When the President's discretion as Commander-in-Chief—that is,

his right to move and employ our armed forces in defense of American interests—is limited by Congress, notice is served on the world that the next act of aggression that damages United States power and prestige will probably proceed with impunity. And the next, and the next, until the situation becomes intolerably threatening, and the only effective response is an unlimited one.

Mr. President, so that all Senators may reflect on the thinking of these scholars, I ask unanimous consent that these three letters be printed in the RECORD.

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

YALE UNIVERSITY,  
INSTITUTE OF SOCIAL SCIENCE,  
New Haven, Conn., May 28, 1970.

Senator GORDON ALLOTT,  
New Senate Office Building,  
Washington, D.C.

DEAR SENATOR ALLOTT: A note from Professor David Rowe, Chairman of the National Council of Scholars, indicates your desire to hear from members of NCS their views on the President's powers as Commander-in-Chief of the Armed Forces and the course of events in Southeast Asia. These I am pleased to provide for what they are worth. I claim no special competence in these areas. My views are thus ones of a concerned citizen with some experience as a public administrator at local, state and federal levels who believes in the United States system of selecting citizen representatives to direct our government, supporting them while they are in office, and replacing them through election if we find they are not serving what we think are the best interests of those they represent. I believe, too, in providing full opportunity for those with ideas concerning what should be done to register their ideas privately and publicly, but not in ways which interfere with the rights of others or in defiance of laws.

In my judgment the President, as Commander-in-Chief of the Armed Forces must be free to direct use of the Armed Forces, within established policies, to the best interests of the nation as he views the total national interest. In emergencies this may mean action prior to Congressional determination of policy, e.g., if the United States were attacked, action might be required before Congress could be convened to declare a state of war existed. During a military operation, as now existing under the Tonkin resolution, the Commander-in-Chief must have the power and resources to deploy armed forces in what appears to him to be in the best interests of the nation. Citizens, and their representatives in the Congress, may appropriately voice their doubts about any given operation or series of operations, but always with the recognition (1) that they cannot have access to the full facts which are available to the Commander-in-Chief and (2) that in a war situation full disclosure of plans in advance serves to strengthen the enemy and weaken the chances of success of our national defense forces.

My own reaction to the situation in Southeast Asia is one of relief that the President has committed the United States to terminate its involvement in the fighting at the earliest date consistent with fulfillment of our obligation to help South Vietnam as a nation develop a government of its choosing and that he has committed us to systematic withdrawal of troops which will pull all United States troops out of Cambodia by June 30, and bring at least 150,000 home by May 30, 1971. This gives the South Vietnamese time to establish their government under the Vietnamization program which the United States has been pursuing. I wish the North Vietnamese would negotiate but recog-

nize that since the United States has informed the world we do not intend to subdue North Vietnam by all-out war they may well conclude that they have more to gain by fighting until the United States forces leave Indo-China than by negotiating.

I am impatient to have our participation in the war in Southeast Asia terminate. I recognize, however, that decisions on what is done today will greatly influence relations with other nations in the future. I am thus willing to accept the need for the Cambodian foray, and for stretching our participation in the Vietnam war beyond May, 1971 providing there is continued and accelerated withdrawal of United States armed forces. And during that time I think it imperative that the Commander-in-Chief have full freedom and support to deploy United States forces where in his judgment they will best serve national interests.

It is a pleasure to renew my contacts with you. I still recall with pleasure our associations during my term as United States Commissioner of Education.

Sincerely,

S. M. BROWNELL.

COLGATE UNIVERSITY,

Hamilton, N.Y., May 20, 1970.

Hon. Senator GORDON ALLOTT,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR ALLOTT: Nothing surprises me any more. Being a college professor, I have seen at first hand how thin is the veneer of principle espoused by my academic colleagues, and how easily they consent to notions they themselves would have regarded as outrageous only a short time ago. At Cornell a year ago some of the University's foremost authorities on constitutionalism and the rule of law, when confronted by the raised clenched fists of angry students, voted eagerly to abolish not only the law and the entire University judicial system, but also the faculty's right to make law and to devise a system, and then sought to justify this pusillanimity on the ground that it was popular.

The same thing is going on today with respect to the constitutional authority of the President as Commander-in-Chief. Men who made their careers defending presidential authority at the time of the so-called Bricker Amendment and during the Korean War—for example the President's authority to seize the nation's steel companies not only without Congressional authority but in the face of a clear congressional statement that he lacked the authority—now speak of “executive usurpation” and advise the kind of political action they used to denounce. What they really mean is that they do not like this President and the decision he made in Cambodia.

In what, precisely, does this “executive usurpation” consist? The troops being there (and Mr. Nixon did not put them there), can it honestly be argued that the Commander-in-Chief has no authority under the Constitution to decide how and where they will be used? Can it honestly be argued that Congress is in a better position to decide as to their disposition? Can it honestly be argued that Congress is better able than the President to control the course of events in Southeast Asia and to make the appropriate response to what Hanoi does (and surely Hanoi will be able to affect the course of these events)? The answers to these questions used to be clear to most academicians, and I think you could perform a constitutional service by showing that arguments parading as constitutional arguments are really the political arguments of angry men, men willing once again to sacrifice the principle they used to defend in order to reap what they consider would be a political advantage, or to achieve a particular political result, and to do so

without regard to the long-range consequences in the country. This country cannot survive, I think, if the President is to be denied the principal voice in foreign affairs and the tactical flexibility that every President has needed and, especially in the Twentieth Century, occasionally exercised.

It is perhaps necessary for me to add that, being a University Professor, I am in a position to know how serious the situation is in this country and how necessary to the health of the country is the end of our involvement in Vietnam.

Sincerely yours,

WALTER F. BERNES,  
Charles Evans Hughes Professor of Govern-  
ment and Jurisprudence.

SHAKER HEIGHTS, OHIO,

May 26, 1970.

Hon. GORDON ALLOTT,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR ALLOTT: I wish to associate myself with those who oppose the Cooper-Church Amendment to limit the choices and discretion inherent in the powers of the Commander-in-Chief.

May I make it clear at the outset that I do not impugn the motives, aims or intentions of those who support the amendment? I simply question their judgment. Is the amendment really likely to achieve the objectives of an early withdrawal of American forces from Vietnam, of a reasonable and just settlement in Southeast Asia, and of avoiding a major conflict between the super powers?

There are two issues: the constitutional and the political. Constitutionally, the power to raise and support armed forces is granted to Congress, and the power to command those forces is granted the President. This division of power is intended to prevent the abuse of executive power by a President inclined to use a standing army to impose a military dictatorship, while at the same time it ensures maximum military efficiency by imposing clear unity and hierarchy of command. The latter are essential in any military organization, where speed and secrecy and clarity of decision may make the difference between victory and defeat. It has been said that one mediocre general is better than a committee of a dozen military geniuses. One might add that, in military campaigns, one run-of-the-mill President is more useful than 100 brilliant Senators.

The President has long had the discretionary power to move and engage American armed forces to protect American lives and interests. President Polk precipitated the Mexican War by ordering maneuvers at the border; President Lincoln forced the seceding South into overt rebellion by ordering supplies to Fort Sumter. A book published in 1945 listed 149 episodes in which American Presidents moved or engaged American forces outside the United States to protect American rights of person and property. Such police actions are within constitutional and international law. (See *The Constitution of the United States of America: Analysis and Interpretation*, prepared by the Legislative Reference Service, Library of Congress, Edward S. Corwin, Editor, U.S. Government Printing Office, Washington, 1953, page 488.)

Whether Congress can use its power to raise and supply (and to refuse to raise and supply) armed forces in order to impair the President's discretionary power as Commander-in-Chief seems doubtful. Such actions by Congress would probably place the United States at a grave disadvantage in international affairs. They would enhance the already great handicap suffered by any free society in its relations with dictatorial or totalitarian states. That handicap has been painfully obvious throughout the long involvement in Vietnam.

But the constitutionality of the amendment is not the central issue. The key issue is political. By this I mean that the decisive consideration ought to be the effect of the amendment on the power, prestige, influence and security of the United States in the world. It seems that the amendment would damage the nation's international influence, and that such damage would in turn bring us closer to the world war that Mao Tse-tung has recently threatened.

Let me insert a parenthetical comment at this point. Our military operations in Vietnam have in general been marked by a shocking absence of imagination and strategic skill. We have fought the Vietcong and the North Vietnamese on their own terms. We have left the initiative consistently in their hands. We waited for years for a MacArthur touch—something like the Inchon landing in Korea—or a brilliant move exploiting the crack troops of South Vietnam in a combined operation against Haiphong. But we waited in vain. The Cambodian pincers operation may have been precisely the sudden move to throw the hostile forces off-balance that we have waited for; yet, ironically, it has proved the signal for greater symptoms of division and demoralization in the nation than before.

This comment is not really parenthetical; it brings us up against the big political issue: can a great democracy pursue persistently, coolly, and patiently an effective foreign and defense policy based on firm but limited response to aggression by potential enemies or their puppets? More than 2000 years ago Plato denied that democracies could be rational and consistent in policy. In the 1950's, in the face of McCarthyism and in the light of the lessons of the 1930's, men like Lippmann, Kennan and Acheson bore testimony in different ways to the extreme difficulty of maintaining consistency, firmness and limited response in democratic foreign and defense policies. The policies of the totalitarian states have been and are founded in part on the assumption that free societies sooner or later grow impatient and weary in the face of "protracted conflict". Until recently, it seemed as if that expectation would be proved unfounded in the case of the United States, but the domestic clamor and upheaval of anti-war protest suggest that Mao and Ho Chi Minh were correct, after all. The Cooper-Church Amendment will be seen as one more proof that free, democratic governments cannot play the game of power politics coolly.

The withdrawal of the United States into isolation or irresponsibility will not, alas, mean world-wide peace or even peace for the United States. Failure to keep our commitments and power in balance will mean sooner or later that the world power balance will tilt heavily against the United States. When that happens, it can be redressed only by extreme and drastic action, that is, by resort to all-out as opposed to limited war.

This prediction is not mere gloom-and-doom intuition. Three times in the twentieth century have the great powers of the "free world" drifted into weakness, isolation and internal anarchy. The first time was between 1900 and 1914. In 1911, for example, Lincoln Steffens guessed that Great Britain was on the verge of internal revolution. France was torn by Anarcho-Syndicalism. Britain refused to make firm commitments against possible German aggression. In 1914 came World War I.

The second crisis of self-confidence in the western democracies came in the 1930's. Marxism-Leninism and pacifism were favorite doctrines among the intelligentsia of Britain, France and the United States. One act of aggression after another passed unchecked: in Manchuria, Ethiopia, China, the Rhineland, Austria, the Sudetenland. The United States passed excessive Neutrality Acts. In the fall of 1938, President Roosevelt more or less compelled Chamberlain and Daladier to

capitulate to the Nazi conquest of Czechoslovakia. Von Ribbentrop informed Hitler that the western democracies were rotten and incapable of resistance to attack. In September 1939, came World War II; in December 1941, Pearl Harbor.

The third crisis of self-confidence is now upon us. Once again doctrines of Marxism-Leninism-Maoism and of anarchy are rife among the young intelligentsia. Once again a weary, sentimental pacifism and isolationism begins to pervade large sections of American society. Once again, a sizable number of members of Congress, sensing the mood of many vocal dissenters, press for withdrawal from foreign commitments. The parallels with previous episodes that preceded world wars are disquietingly obvious.

I therefore see the Cooper-Church Amendment not as a matter of cutting the President down to size, nor as an internal squabble over Senatorial versus Presidential control over foreign policy, nor as a melodramatic struggle over "usurpation" of power. I do not even see it as a fascinating comment on the problems of a period of undeclared wars, indirect aggressions, and grey areas in which traditional rules of international law (belligerency, neutrality, sanctions and so forth) are irrelevant. I see it, as much of the world will see it, as a symptom of the decline of the spirit of patient firmness which has marked American foreign and defense policies since 1948. The passage of the amendment will, I believe, be regarded as an indication that the United States is abandoning its firm but flexible policy of responding to aggressions that shake and destroy the precarious balance of power in the world. When the President's discretion as Commander-in-Chief—that is, his right to move and employ our armed forces in defense of American interests—is limited by Congress, notice is served on the world that the next act of aggression that damages United States power and prestige will probably proceed with impunity. And the next, and the next, until the situation becomes intolerably threatening, and the only effective response is an unlimited one.

Yours sincerely,

RAYMOND ENGLISH.

Mr. GOLDWATER. Mr. President, when this current debate first started, I was somewhat apprehensive. I knew that it would be prolonged. But I did not think that there would be too much good come of it. However, as time has moved on—and I assume there will be much more time devoted to this—I have seen some benefits accruing from it already.

In doing research and in trying to do research in this particular field in the Library of Congress and in my own library and in other places, I find that during the history of our Republic very little attention has been paid to the constitutional edicts versus Congress and the President and concern in the general area of warmaking and policymaking in connection with war.

I think the very fact that it has made people study this issue has awakened Americans to the fact that our Constitution is very, very strong. In both instances it has done good. And I hope that in the coming weeks of debate on this matter, each Senator will continue to do as has been done in the past on both sides of the question and exercise as much study as can be exercised in this very, very important field.

It is a surprising thing, Mr. President. I find a great many lawyers who have never been acquainted with the parts of the Constitution to which we have been

referring. I find very few citizens who have read their Constitution and some who have not read it in many, many years.

I think this is going to have good results, because it will make people read the Constitution and will make them think about it. And, as I will suggest, people may come to the conclusion that some changes might be in order.

I start my formal remarks this afternoon by doing something that I do not usually do. I want to read an editorial from the Washington Evening Star of Friday, June 12, 1970.

The title is "Cooper-Church in Perspective."

The editorial reads:

The defeat of the Byrd amendment has been greeted as a major victory by opponents of the operation in Cambodia. But the cries of jubilation from those who believe the war is being wound down too slowly are, to put it mildly, premature.

The hard fact is that the passage of the Byrd amendment would not have prolonged the war and that the defeat of the measure does not bring peace closer. Passage of the Cooper-Church amendment itself, which the Byrd amendment sought to soften, would not change the course of the war. For the legislative facts of life demand that a measure must be passed by both houses and signed by the President before it becomes law—and neither the House of Representatives nor Mr. Nixon has demonstrated much enthusiasm for Cooper-Church as it now stands.

There are three practical alternatives as to the future of the amendment. The Senate may vote it down and end the matter there. The Senate may pass the amendment in essentially its present form, in which case the House will almost certainly refuse to accept it and the future of the Military Sales bill, to which Cooper-Church is attached, will hang in the balance. Or the Senate may, by amending the measure, arrive at a compromise that the administration can live with and that will still express the widespread dissatisfaction of Congress.

The last alternative is the most likely. The measure has already received a thin layer of sugar coating with the adoption of the Mansfield amendment, which states that the Cooper-Church measure "shall not be deemed to impugn the constitutional power of the President as commander in chief." Further correction is needed—particularly in an area of a Cooper-Church provision which has received little public notice, but which would prevent U.S. advisers from operating in Cambodia, would bar tactical air support for Cambodia, and would end financial aid to any outside forces operating in support of the Cambodian army. That section, which in effect repeals the Nixon doctrine as it might apply to Cambodia, must be scrapped.

But the main thrust of the amendment, which is designed to hold President Nixon to his announced plan for withdrawal from Cambodia, should be subject to compromise. Despite the clouds of emotionalism that have engulfed the debate in the Senate, there is, in truth, no unbridgeable ideological chasm between the two sides. There is no one in favor of widening the war and continuing American military involvement indefinitely in Southeast Asia. There is no sizable congressional faction that seriously believes that peace can be instantly legislated. There are, indeed, few in either house who believe that the President has acted unconstitutionally, and who fail to recognize that the constitutional authority to declare war has been operationally amended by the diplomatic realities of the nuclear age.

So, despite all the noise about constitu-

tional prerogatives, that is not the essential issue of the present debate. What is involved is a justified pique on the part of the legislators over the lack of consultation before major moves are undertaken. It was a process that began in earnest under President Johnson and that has been continued by the Nixon administration. A course of action is established—the introduction of combat troops, the bombing of the North, the entry into Cambodia—and then Congress is told about it and asked to support it financially.

What Congress is demanding is prior consultation on what it considers to be major foreign policy decisions. It is a demand that the administration should heed in the interests of maintaining a working partnership between the executive and legislative branches.

Mr. President, as I have said, that editorial was published in the Washington Evening Star last Friday. I found it extremely interesting because it very fairly and cautiously stated what we are talking about on the floor of the Senate.

But there is one alternative to the Cooper-Church amendment that the Washington Star editorial writer did not think about. He probably thought about it but did not feel it was necessary to include it, and that is the proposal I have made on the floor of the Senate time and again—and I believe in this very sincerely—that if it is the feeling of this body, and if it is the feeling of the American people that Congress does not have sufficient power in the making of war, or that the President possesses too much power under the Constitution, then let us correct the condition by a constitutional amendment.

Let Congress vote on it, and let the people of the United States vote on it. If there is sufficient backing for an amendment that will define more clearly the powers of Congress in the military-foreign policy making field, or more clearly limit the powers of the President in war, then we will be approaching the problem in the proper way.

I might inject at this point because some persons have criticized my position on this subject because I earlier took a position on the 18-year-old vote—which I would much prefer to see come about by constitutional amendment—which I am convinced could be done legislatively and within the confines of the Constitution because of Supreme Court decisions that have been made in that general area which I feel and others feel gives us the right to legislate instead of going through the constitutional amendment process.

I know of no record that has been made, and I know of no legislative history, or constitutional history, or court history that would provide the same vehicle for the Congress to act on these constitutional powers by legislation. That is why I feel so strongly, if it is needed, and I think there is a growing number of American people who feel some adjustment should be made in both the case of Congress or in the case of the President.

Mr. President, for the record I would like to read what we are talking about. Article I, under section 8 of the Constitution states:

The Congress shall have power:

To declare War, grant Letters of Marque and Reprisal and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces.

Mr. President, I might say parenthetically, and not facetiously at all, that at some time I think we should include the Air Force in that provision so he will be constitutionally proper when he uses tactical or strategic air.

I continue to read from section 8 of article I of the Constitution:

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

Mr. President, I have read that section into the RECORD because the more we can let the American people know what the Constitution states and what we are arguing about, the better job we will be doing. To me there is absolutely nothing in those words that gives Congress the right to determine strategy or tactics or even force size. In other words, there is nothing I can see in this language other than the rather vague words "to declare war," which I will discuss in just a moment that would give this body, Congress, the right to intervene in the Southeast Asian war, as the Cooper-Church amendment is now trying to do.

So the record may be straight, I will read from article II, section 2, about the powers of the President. We will discuss that also in just a moment. That section reads:

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States;

Mr. President, the term "militia"—a term we do not use today—means the National Guard and also the Reserve forces, because the Governor, as we know, can call out the National Guard to protect citizens of his State, enforce laws, protect property, and so forth. But also the National Guard and the Reserves can be called out by the President for Federal duty. Of course, when they are so called they become members of the regular military regardless of the branch with which they are concerned.

So far as the present law stands I do not think there is any sound reason for challenging the legality of President Nixon's action in Cambodia or Vietnam. To my mind, the President was acting lawfully and constitutionally in sending troops into Cambodia.

It is rather surprising to me to have read last week an ad that appeared in Washington newspapers signed by hundreds of lawyers with the suggestion that

the President acted illegally. I am not a lawyer but I have known many lawyers. I have yet to find one who says the President acted illegally. He is the Commander in Chief and, as we will see, the Commander in Chief has vast powers.

For one thing, as I read the Gulf of Tonkin resolution—which was a joint resolution signed by the President—I believe it authorizes the President to take any action he considers necessary to repel Communist aggression and protect the interests of the United States in Southeast Asia.

The Gulf of Tonkin resolution might not be a formal declaration of war, but it certainly puts this body on record as authorizing any military measures the President might deem necessary.

This situation is parallel to the historical incident which many liberals have cited approvingly as representing proof that President John Adams did not engage in an "undeclared war" with France.

They have claimed that President Adams' actions did not involve independent executive action. They point to a series of legislative acts which "amounted to a declaration of imperfect or limited war."

The critics use two early Supreme Court rulings to support their claim that Congress need not resort to a general declaration of war, but may authorize a partial war. These cases are *Bas v. Tingey*, 4 U.S. 37 (1800) and *Talbot v. Seeman*, 5 U.S. 1 (1801).

Very well. If the President's critics admit that Congress does not need to enact a formal declaration of war in order to authorize a state of limited war, then why do they not admit that they themselves have authorized the President to act in Indochina through the Gulf of Tonkin resolution?

The Congress was asked for, and the Congress agreed to, the granting of powers equivalent to those that might be contained in a formal declaration of war, except that the grant of authority was limited in place to Southeast Asia.

Mr. President, the Tonkin resolution is not by any means the only ground upon which the President may claim to have acted under the Constitution.

The President's powers are also derived from those provisions of the Constitution which make him the Commander in Chief of the Army and the Navy—and I will add the Air Force—of the United States, which vest in him all the executive powers of a sovereign nation, which gave him special responsibilities in the field of foreign affairs and which impose upon him the duty to take care that the laws be faithfully executed.

Leaving my text for a moment, I might try to draw a parallel with the situations we found ourselves in in World War II, where we had a declaration of war against Germany and a declaration of war against Japan. In both instances the war was fought on a great many foreign grounds. For example, we did not have to get permission, nor did we have to execute a separate declaration of war, to go into North Africa to help the be-

leagued British. We did not have to have a separate declaration of war to go into Italy or into southern France or into Normandy. We did not have to have a separate declaration of war to go into Guadalcanal, Iwo Jima, or the many other islands representing ownership by other countries in the Pacific.

What I think we sometimes overlook is that we were fighting a common enemy. In the case of Europe, it was Germany. In the Pacific, it was Japan. We were fighting a common enemy. The declaration of war was against that enemy.

While we do not have a declaration of war in the instance of South Vietnam, in my opinion the Gulf of Tonkin resolution actually goes a little further than a declaration of war in recognizing that we are fighting a common enemy. So, on the same ground that President Roosevelt had the authority and strength to send our troops wherever the Supreme Commander thought they should go, I think the President in this case has the right to send troops into any country where the common enemy exists, be that Cambodia, or Laos, or, in the event of entry into Thailand, even that country.

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

Mr. GOLDWATER. I am glad to yield.

Mr. MILLER. I have been listening with great interest to the comments of my colleague from Arizona about the constitutional power to declare war. As he well pointed out, the Tonkin Gulf Resolution contains the elements of a declaration of war.

I would make this observation and ask him for his comment on it. There is nothing in the Constitution that requires a formal declaration of war. What counts is that Congress express its will. Congress can express its will by a formal declaration of war. Congress can express its will in a de facto declaration of war.

I well remember when the Tonkin Gulf resolution was being debated, the Senator from Kentucky (Mr. COOPER) asked the manager of the resolution, who was the junior Senator from Arkansas (Mr. FULBRIGHT)—and his language was about like this; it is recorded in the CONGRESSIONAL RECORD—"And do I understand that the authority that we are granting under this resolution is such as could lead to a war?" The Senator from Arkansas responded, "That is the way I interpret it."

Is there any question about the will of the Congress with that action on the Tonkin Gulf resolution? It seems to me that that expresses the will of the Congress very well, and thoroughly satisfies the constitutional requirement—reinforced further by the fact that only five of the 535 Members of Congress voted against it.

Does not the Senator agree with me that that would constitute a de facto declaration of war, satisfied by the requirements of the Constitution?

Mr. GOLDWATER. I do not think there is any question in the world that the Gulf of Tonkin resolution is, in effect, a declaration of war. As the Senator commented, there are three words in the Constitution provided—"to declare war." There is no formal form

for a declaration of war. There is not even a historic precedent for the type of language that should be used. Always, in the five cases where we have declared war, we have acted upon the insistence of the President. Even though we have the power to declare war, I doubt seriously that the Congress would ever assemble and make such a declaration, or resolution, or whatever it might be, unless the Commander in Chief asked for it.

As I mentioned earlier—and I have read the other declarations of war—except for the language of reprimand that is usually contained, I think the Gulf of Tonkin resolution goes further than anything I have read in the five cases of declaration that we have had.

Mr. MILLER. Mr. President, will the Senator yield further?

Mr. GOLDWATER. Certainly.

Mr. MILLER. Mr. President, if the declaration of war requirement should, somehow or other—and it is inconceivable to me how it could be—should be interpreted as not meeting the constitutional requirement that the Congress express its will on this subject, I suggest that there could not be any possible question over what Congress did 7 months later.

The Senator from Arizona will remember that 7 months after the Gulf of Tonkin resolution, the President sent over to Congress an appropriation request specifically and solely for the war in Vietnam. He accompanied that request with a message to Congress in which he stated that there had been a lot of Communist propaganda emanating from Hanoi and Peking to the effect that Congress and the people of the United States did not support the war in Vietnam.

The President suggested that here would be a very good opportunity to put the lie to the Communist propaganda by having Congress act on this appropriation specifically and solely for the war in Vietnam, and he expressed the hope that the approval of the appropriation would be by an overwhelming majority of Congress.

Seven of the 535 Members of Congress voted "No." How anyone could suggest that that is not a reflection of the will of Congress sufficient to satisfy the declaration of war powers in the Constitution is beyond me. I ask my colleague from Arizona if he also does not think that that reflects the will of Congress sufficiently to satisfy the constitutional requirement.

Mr. GOLDWATER. I certainly think so, Mr. President. In fact, I get back to the three words "to declare war." Those words do not mean what the general public believes them to mean—in other words, that we have to have a declaration of war by Congress before we can enter war. As I shall point out later, we have had five declarations of war: the War of 1812, the Spanish-American War, World Wars I and II—in the latter case two declarations, one against Germany and one against Japan.

Mr. MILLER. The Senator means formal declarations.

Mr. GOLDWATER. Well, formal, resolved, or whatever. But the other 132

wars we have been in were undeclared, and this is something the American people do not realize. I do not think many Members of this body realize that of the 137 or 138 military engagements we have been in, only five of them have been declared.

In answer to the Senator's suggestion—I think it was his suggestion; I may be trying to read something into his remarks, but if I am, he can correct me—when he related the request of the President for separate funds for the maintenance of the war in Southeast Asia, in my opinion, that would be the constitutional way to approach what the Cooper-Church amendment is trying to get at—namely, to express a dissatisfaction with the war. We could do it in a concrete way by refusing to appropriate money for the military for the purchase of new equipment. We could be specific in it, and say that it cannot go here and go there. This, in my opinion, would be a better legislative way to get at them. It would also be a very dangerous way, because our military budgets have been reduced more than any other budgets since World War II, and to reduce them any farther would, I think, endanger the security of this country.

The Senator is absolutely correct, getting back to his idea that this body had backed this war up until this surge in this country—and I have been talking about this for the last 10 years—of isolationism that now permeates the country. Were it not for that, we probably would not have this discussion going on.

Some people think that "isolationist" is a sort of dirty word. I do not. I think people are entitled to feel that this country can isolate itself and stand alone in the world, a fortress America once again. I personally do not think it will work, but I think what we are seeing reflected in the letters we get from home, and the speeches we hear in the Senate pro Cooper-Church, is really an expression of a desire to disengage this country from all of its treaties and obligations and once again become a fortress America, a walled America, and let some other country take over the leadership.

Mr. MILLER. Will the Senator yield further?

Mr. GOLDWATER. I yield.

Mr. MILLER. Mr. President, the main thing I want to bring out is that, as a Member of the Senate, I fully recognize that Congress is empowered under the Constitution to declare war. As a Member of the Senate, I want to be on record as stating that Congress has satisfied that requirement, not by a formal declaration of war, but by a de facto declaration of war, on at least two occasions.

What the Constitution requires is that Congress manifest its will; and, with the legislative history of the colloquy between the Senator from Kentucky and the Senator from Arkansas during the Gulf of Tonkin debate, with the special appropriation for the war in Vietnam, and with the overwhelming, almost unanimous vote by both Houses of Congress in favor of those measures, I do not know how anyone could suggest that the will of Congress has not been made clear,

and that the constitutional requirement has not been met.

I agree with the Senator from Arizona that if Congress wishes to manifest its displeasure, it certainly has the constitutional authority to say to the President of the United States, "Well, Mr. President, you have asked us for \$70 billion for national defense; we are only going to appropriate \$50 billion." We have that authority. I am not saying it is a good idea. The Senator from Arizona well pointed up the fact that we have concern over meeting our national security requirements. But if Congress wants to vote \$50 billion, we can do it, and that is perfectly legal under the Constitution.

But for Congress to come along and undertake to play Commander in Chief, and say, "We want the troops to go here, we want them to stay there, we want airplanes to be flown under certain conditions, we want certain types of bombs to be used," I suggest takes Congress away out of its water, and that it has no constitutional authority to do that whatsoever.

I think this is what we are getting into in connection with some of the thoughts that are being expressed over the Cooper-Church resolution. The Commander in Chief has the authority, inherently as Commander in Chief, to take appropriate action to protect the rights of our troops whom he has sent over to another country to fight a war. That is what the Cambodian sanctuary operation is all about.

The other day, by a vote of 91 to 0, we adopted the Mansfield amendment, which says that the Cooper-Church resolution, whatever it says, shall not be interpreted to impugn the powers of the President as Commander in Chief. In a colloquy with the Senator from Idaho, who was managing the resolution at the time, I brought out from him—and he was quite frank and fair about it—that the proponents of Cooper-Church have no intention whatsoever, under this amendment, to criticize the President for his action in the Cambodian sanctuary operation; and of course they could not, because he was taking the action as Commander in Chief.

I must say at this stage, with the Cooper-Church amendment here and with the Mansfield amendment having been adopted, I do not know what we have been doing for the last 5 weeks except having a lot of wind emanate from the Senate, making a lot of copy for the reporters to write about, and unduly delaying legislative programs this country needs very badly.

I thank the Senator for yielding.

Mr. GOLDWATER. Mr. President, I thank my good friend from Iowa for asking me to yield, because I think he has brought up some very pertinent and important points.

Before I proceed, I comment once again that what the attempt actually is here is to amend the Constitution; and I think it is better, if we want to do that, to try to do it through the proper channels; namely, by the passing of an amendment by Congress and the submission of it to the people, and having the necessary two-thirds of the States

vote on it and return it, so that the amendment can be made.

The language contained in the Mansfield amendment, while it was practically ignored by the experts of the media, was to me the biggest point made, because they recognized by that language that the Constitution is very strong in this field.

I wish to get on to that point now.

#### COMMANDER IN CHIEF

The President's function as Commander in Chief is spelled out very clearly in article II, section 2 of the Constitution.

Edgar E. Robinson, in "Powers of the President in Foreign Affairs," claims:

It is then evident that the President's powers as Commander-in-Chief of the Armed Forces are of greater significance than all the other powers prescribed in the Constitution.

In their capacity as Commander in Chief, past Presidents of the United States have, in the absence of declarations of war, committed American military forces to armed action in 138 instances.

On the other hand, the United States has engaged in only five wars under a formal declaration of war: the War of 1812; the Mexican War, 1846; the Spanish-American War; World War I; and World War II.

While many of the undeclared military actions involve the protection of American property or American citizens in foreign lands, a great many of them have involved the general defense of the United States or the protection of some national security interest.

These incidents range from the war against the Barbary Pirates, in Jefferson's time, to an attack by a force of sailors and marines who were ordered by President Wilson to capture Vera Cruz in Mexico in order to avenge an insult to the flag. They range from American participation in 1900, in an international expedition to put down the Boxer Uprising in China, to the action by President Kennedy in 1962 when he put us on a collision course with another superpower by imposing an immediate naval quarantine of Cuban waters. Confronted with a buildup of Soviet missile bases in Cuba, he could not wait for congressional approval of his action to prevent delivery of additional Russian missiles. As a result this Nation was thrust into a confrontation infinitely more serious than Vietnam or Cambodia.

In fact, President Franklin Roosevelt viewed the Presidential power as Commander in Chief to be so great that in July of 1941 he notified Congress that he had sent thousands of American troops to be in Iceland. This was done contrary to an express geographical limitation on the use of U.S. troops abroad that Congress had enacted only a year before. Both the Reserves Act of 1940 and the Selective Service Act of 1940 provided that persons called under this authority could not be employed outside the Western Hemisphere.

Yet, President Roosevelt, as other Presidents had done before him and as others have done since, used his great power as Commander in Chief to ignore

the provisions of the Reserves Act and the Selective Service Act passed just a year prior.

Former President Taft, who was also a Chief Justice on the Supreme Court Bench, stated the law broadly when he wrote in the Yale Law Journal in 1916:

It is clear that Congress may not usurp the functions of the Executive . . . by forbidding or directing the movements of the Army and Navy.

#### EXECUTIVE POWER

There is a wide range of powers that have been granted to the President under the first sentence of article II of the Constitution, which reads:

The Executive Power shall be vested in a President of the United States of America.

The opening sentence of article II was cited by Alexander Hamilton, who first argued that the President's role in international matters is a dynamic and positive one. In a series of articles in *Gazette of the United States*, Hamilton argued that the Constitution vested in the President all the executive powers of a sovereign nation.

This interpretation is supported by the late Prof. Edward Corwin, who writes in "The President: Office and Powers," that—

The powers of the national government in the diplomatic sphere . . . is an inherent power, one which owes its existence to the fact that the American People are a sovereign entity at international law.

Corwin mentions that this theory was adopted by the U.S. Supreme Court in 1936 in the case of *United States v. Curtiss-Wright Export Corporation*, 209 U.S. 304 (1936).

Hamilton also writes in the *Gazette* that the President possesses the power to judge for the United States "What rights the law of nature and nations gives." In fact, Hamilton goes so far as to contend that the Executive has the right "to determine the condition of the Nation, though it may, in its consequences, affect the exercise of the power of the Legislature to declare war" and that "the Executive, in the exercise of its constitutional powers, may establish an antecedent state of things."

President Taft announced the same idea in 1916, during his lectures at Columbia. He said bluntly that—

Under the Constitution, only Congress has the power to declare war, but with the Army and the Navy the President can take action such as to involve the country in war and to leave Congress no option but to declare or to recognize its existence.

Mr. President, I would like to have the attention of the Senator from Iowa before I go on with the next chapter of this discussion.

I have here a copy of the declaration of war made in 1941. It is very interesting, because the Senator from Iowa suggested in our colloquy earlier that there is no formal declaration, no form, that we follow. This is what this Nation said in that declaration of war:

*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the state of war between the United States and the Government of Germany which has thus*

been thrust upon the United States is hereby formally declared; and the President is hereby authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Government of Germany; and, to bring the conflict to a successful termination, all of the resources of the country are hereby pledged by the Congress of the United States.

That was approved on December 11, 1941.

Now I will read the Gulf of Tonkin resolution, so that we will have the two together in the RECORD, and people can see what we are talking about. The section we referred to reads:

The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in Southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations, and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed forces, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

The Gulf of Tonkin resolution was that. It was a resolution. The declaration of war in 1941, to which I alluded, was a declaration, also, I might say, in the form of a resolution; but while the language is different, the essence is there. In the Gulf of Tonkin resolution, it says, "including use of Armed Forces" and "to take all necessary steps."

I might remind the Senator from Iowa that the man who engineered this resolution, who urged its passage, and who as recently as a few years ago said that the President did not have enough power, is one of the chief supporters of the Cooper-Church amendment and other amendments which in my opinion will run contrary by 180 degrees to his stand at that time. That is the distinguished Senator from Arkansas (Mr. FULBRIGHT).

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

Mr. GOLDWATER. I am happy to yield.

Mr. MILLER. Mr. President, there is only one thing I might add to what the Senator from Arizona has just set forth with respect to the Gulf of Tonkin resolution.

The Senator from Arizona, as an old Senate hand, knows very well the importance of legislative history in interpreting the will of the legislative body. Does he not agree that when the Senator from Kentucky (Mr. COOPER) addressed a question to the manager of the resolution, the junior Senator from Arkansas, and asked, "Do I understand that the language in this resolution the Senate is now considering extends sufficient authority to the President as to lead to a war?" and the Senator from Arkansas answered, "That is the way I would interpret it," does not the Senator agree that the intention of Congress means that, in effect, a declaration of war is manifest?

Mr. GOLDWATER. I was not here at the time. The Senator might remember I was engaged in a little campaign of my own called the cliffhanger of 1964. I

might say that I know something about the Gulf of Tonkin resolution because President Johnson got in touch with me, prior to asking for this, and related all the circumstances that caused him to ask for it, and he asked for my support. I said that I would certainly give my support to it. I would have voted for it, had I been in this body at that time.

But I cannot understand how anyone now can say that he did not really understand the language, because if we need any tougher language than telling the President to use armed forces or to use any means at his disposal, I do not know how much tougher one can get it.

I believe that everyone voting in this body at that time certainly must have understood the implication—I will not say everyone because, as I understand it, there were two, was it?

Mr. MILLER. Two in the Senate and three in the House, five out of 535 who voted "no."

Mr. GOLDWATER. I am sure that they voted "no" because they saw in it a possibility of war, but under the circumstances, I can conclude nothing else could have happened but war.

Mr. MILLER. I think it well to point out and to repeat quite often what went on in the Senate Chamber. As the Senator pointed out, he was in a campaign and was not present, but most of the rest of us were here. The CONGRESSIONAL RECORD is printed for all to read and see. While it might be a little embarrassing for certain Members of the Senate to be referred to those portions of the CONGRESSIONAL RECORD which set forth the debate right here on the Senate floor, with people in the galleries and everyone knowing what was going on, the fact remains that the answer of the manager of the bill to the question of the Senator from Kentucky was that that was exactly the way he would interpret it, that the Gulf of Tonkin resolution provided sufficient authority which could lead to a war.

Is there any other way to interpret the will and intention of Congress? There is not any. It is right there. Anyone who studies law understands that debate on the floor of the Senate constitutes part of the legislative history, for the purpose of showing the intention of Congress. The Constitution, as the Senator from Arizona has pointed out, does not say it has to be a formal declaration all dressed up in ribbons and all of that. What counts is that the intention of Congress be expressed.

I was here, and so were most of the rest of my colleagues, including those supporting the Cooper-Church resolution. It is OK for them to do that, just so they understand that the record is clear, there is nothing unconstitutional about what the President has been doing, and certainly not since the Gulf of Tonkin resolution plus the special appropriations request to which I earlier referred.

Mr. GOLDWATER. I might point out, too, that even if this body at some later date repealed the Gulf of Tonkin resolution, the President can continue the war. We can declare war down here every 15 minutes, but only the President can go to war. I do not care how many resolu-

tions we pass, if we do not use the money approach, use our power to cut off funds, we are not successfully going to say to a President, "You have to do this or you have to do that." Once he has committed himself, any leader worth his salt, while he would certainly understand that Congress might be opposed to him, although not a large majority, would feel there was no constitutional right or necessity to end the war.

#### FOREIGN RELATIONS POWERS

Now, Mr. President, looking again at some of the powers, let us discuss those in the field of foreign relations.

The Supreme Court has called the President the "sole organ of a nation."

Speaking of the power of the President to conduct foreign relations, the Court said, in the Curtiss-Wright case:

It is important to bear in mind that we are here dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary, and exclusive power of the President as the sole organ of the Federal Government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress.

This principle had been first laid down by none other than John Marshall, the great architect of constitutional interpretation. On March 7, 1800, while he was still a Member of the House of Representatives, Marshall said:

The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations.

The broad nature of the President's authority to conduct foreign relations is demonstrated by his exercise of several important diplomatic powers. In his famous work on the Presidency, Professor Corwin describes these powers as including the power to receive ambassadors and other public ministers, "Presidential monopolization of the right to communicate with foreign governments," the Presidential prerogative to recognize new governments without consulting Congress, the power to negotiate treaties, and the power to enter into executive agreements with other governments.

These powers were given due recognition by Corwin when he said:

From the viewpoint of the present moment it is not extravagant to say that *immensely the most important single factor in the determination of American foreign policy has been Presidential guidance of it.*

In consulting the intent of the Founding Fathers, it is pertinent to look at a report by the first Senate Standing Committee on Foreign Relations. This report finds that—

The President is the Constitutional representative of the United States with regard to foreign nations . . . The nature of transactions with foreign nations, moreover, requires caution and unity of design, and their success frequently depends on secrecy and dispatch.

These words are unquestionably founded upon the statement by John Jay, the first Chief Justice of the Supreme Court, who observed in the Federalist that the President possesses great inherent strengths in the direction of



foreign affairs. These are the unity of the office, its capacity for secrecy and speed, and its superior sources of information.

In 1967, Under Secretary of State Nicholas Katzenbach restated the meaning of these words in modern terms when he said:

Today, these considerations require that the President fill the preeminent role:

He alone has the support of the administrative machinery required to deal with the sheer volume of our foreign affairs problems.

He alone is the focus of diplomatic communications, intelligence sources, and other information that are tools for the conduct of foreign affairs.

He alone can act, when necessary, with the speed and decisiveness required to protect our national security.

Mr. President, that was not only said or written by anyone connected with what could be called a constructive position on the Constitution, or a conservative position, if there be such in the field of foreign affairs, that was written by Mr. Nicholas Katzenbach, a brilliant man. I think he made a brilliant observation when he wrote that Jay's understanding brought it up to maintain it and extend on it somewhat.

#### PRESIDENTIAL DUTY TO EXECUTE THE LAWS

Mr. President, let us now look at another duty. I refer to the Presidential duty to execute the laws. This is a duty that very, very few Americans are acquainted with.

Section 3, of article II of the Constitution places upon the President, and the President alone, the duty to "take care that the laws be faithfully executed."

Now, as we all know, the laws of the land include international law as well as domestic law. The significance of this fact is explained by looking at the words of Alexander Hamilton. Writing in the *Gazette of the United States*, Hamilton said:

The President is the Constitutional executor of the laws. Our treaties, and the laws of nations, form a part of the law of the land. He, who is to execute the laws, must first judge for himself of their meaning.

In other words, it is up to the President to interpret the international obligations of the United States, and up to the President alone. I might say that in the formulation of treaties the Senate does advise and consent. I think that historically it can be shown that the Presidents have placed great confidence in the advice and consent of the Senate. And I must say that all of this particular view that I have just expressed has received judicial support. Witness the following quotation by Professor Corwin:

Thanks to the same capacity to base action directly on his own reading of international law—a capacity which the Court recognized in terms in the *Neagle Case*—the President has been able to gather to himself powers with respect to warmaking which ill accord with the specific delegation in the Constitution of the war-declaring power to Congress.

Corwin also expresses this doctrine in the following clear terms:

The President may also make himself the direct administrator of the international rights and duties of the United States, or of

what are adjudged by him to be such, without awaiting action either by the treaty-making power or by Congress, or by the courts.

Although relevant judicial holdings are sparse, what little case law exists upholds the doctrine of Presidential prerogative to determine when and where American interests should be defended by force.

The *Neagle* case is one precedent. Another arose out of the action in 1854, by the commander of the U.S.S. *Cyane*, who nearly leveled the city of Greytown, Nicaragua, in retaliation against a revolutionary government that had refused to make reparation for an attack on U.S. citizens. Mr. Justice Nelson of the Supreme Court, who was sitting as a district judge, held that—

The question whether it was the duty of the President to interpose for the protection of the citizens of Greytown . . . was a public political question . . . which belonged to the Executive to determine; and his decision is final and conclusive . . . *Durand v. Hollins*, 4 Blatch 451, 455 (1860).

Mr. President, the subject I have addressed myself to on the floor today, particularly with the distinguished Senator from Arkansas (Mr. FULBRIGHT), concerns what they intend to do and what suggestions will come from the Foreign Relations Committee relevant to the large number of treaties that we have advised and consented favorably on in the Senate and that the President has signed.

I mentioned in particular the 17 treaties we have with NATO countries. Those treaties do not just say, "We may come to your aid." They pledge war if those countries are in trouble.

Mr. President, before we go about limiting, or even suggesting the limiting of the Presidential powers under the Constitution, I think that if we feel we have prerogative in the Senate we should say what we propose to do about these treaties which are binding. We also have 40 or 41 other treaties sprinkled around the world that go back to some extent, and some not so far. Some are hard to understand.

But, I would hope that in the not too far distant future the Foreign Relations Committee of the U.S. Senate will discuss the matter publicly so that the American people will know just what we are pledged to do in this world.

I do not think it makes a lot of sense to try to build a fence around the Presidential powers as Commander in Chief while we still have obligations that we have honorably and honestly entered into with other countries, if we say to the President, "You cannot use those powers without coming down here and consulting with us."

If we find that a country has called upon us to live up to the words of our commitment, we may say, "No, Mr. President. We do not think you should do that."

Mr. President, if the powers are interpreted to that extent, what do we become in the eyes of the world?

I know that many Americans say, "We do not care what the rest of the world thinks about the United States."

I think that is very naive. I think it

borders on foolishness to talk in that manner.

If the other nations of the world do not have faith and confidence in the United States, we will cease to become the No. 1 power in the world.

There will be a No. 1 power, because there never can be a vacuum where power has to be. And we will be confronted with a world led probably by Russia or, in the worst case, Red China.

I hope that the Senate Foreign Relations Committee will explore this whole field and use television, as they have used it in the case of economic kings who have come here and said that the war is wrong. I hope that they will use it to educate the American people as to just what we are in for with the treaties we have which have been suggested by Presidents and passed on by the Senate and are a part of the law of the land that the President is charged with fulfilling.

#### DOCTRINE OF POLITICAL QUESTIONS

Mr. President, we now get into the doctrine of political questions. While both sides in this debate have quoted cases to support their claims, there simply is not any Supreme Court decision squarely on point. In most instances, the language pointed to is not even necessary to deciding the case. It is purely dictum.

The basic question to be answered is whether the President may, without any prior restriction by Congress, and in the absence of any formal declaration of war by Congress, use force outside the United States for purposes more intangible than the direct and immediate protection of American citizens or property.

There is no court case that squarely fits these circumstances. The courts have dropped this one like a hot potato. They have unanimously followed the principle of "political questions," first formulated by Chief Justice Marshall. Under this doctrine, the Federal judiciary will refrain from deciding certain fundamental questions on the ground that they are more political than legal.

Thus it is that legal objections to the Vietnam conflict have uniformly been denied a hearing by the Supreme Court. In one important test, *Mora v. McNamara*, 389 U.S. 934 (1967) the Supreme Court refused to grant review to a case involving draftees ordered to be sent to Vietnam who claimed that our military action there was unconstitutional.

And so it has been throughout our history. In the present situation I doubt that the Court will ever answer the question whether or not the President may order men to participate in the Vietnam conflict when no war was formally declared by Congress. I doubt if we shall ever learn whether the Court believes the SEATO Treaty or the Gulf of Tonkin resolution amounts to the same thing as a limited declaration of war.

This is why I say that on balance we must look to the past to see that Presidents have ordered American forces to take part in military activities abroad many times when there was no prior authorization by Congress, and we must look to the future to see whether passage of the Cooper-Church amendment would create such an undesirable precedent

that it would hobble the President in his ability to defend America's vital security.

Mr. President, I repeat again, I certainly can understand the interest and the desires of the framers of this amendment. I can understand the deep concern of the American people who support that amendment, and I also understand the concern of people who oppose it. In fact, I think if we spent more time trying to understand we would be better off. But in this particular case I feel, as I have said many times, instead of our trying to enact something on the floor of the Senate or the House of Representatives that will have a direct bearing on the Constitution and which, in itself, may very well be unconstitutional, that it would be wiser if we prepared an amendment to the Constitution covering powers of Congress and the powers of the President then let the American people vote on these things. I think it is too important to be decided by a piece of legislation, particularly an amendment to a bill.

Here we have a major military activity already underway. It was started under past Presidents and inherited by the current President. If we attempt to bind his hands in being able to protect American troops while the conflict is still going on, we will unquestionably, at some point in the future, put him in the position of facing a terrible dilemma.

He will either have to allow the lives of American men to be placed in extreme danger from an enemy who can enjoy a free hand at building up his forces and supplies in a congressionally defined sanctuary, or he will have to relegate the congressional directive to the wasteheap and take whatever action is needed to defend our troops, thereby creating one of the gravest constitutional crises in American history.

This leads back to my original premise. If some Senators believe the constitutional mandate to Congress to include strategic and tactical decisions, during an ongoing military action, we should approach the matter with a constitutional amendment so that we do not establish a state of confusion with turmoil within our Nation about the actual powers of the President.

Unless we act in this way, I think we would be guilty of destroying the confidence of our own people in the President's power to defend his country.

We also would be responsible for destroying the confidence of our friends around the world if they believe the President can be made so weak that he cannot even protect the lives of American servicemen in the field. If we go in for this kind of meddling in the affairs of the Commander in Chief we will be doing nothing less than telling the world that the Congress of the United States has no faith in the foreign policy or military strategy of its President.

I might recognize at this point, Mr. President, that it is certainly the right of Congress to express by resolution a dissatisfaction with the foreign relations of this country; but I must remind Senators that the President was elected by the people and not Congress. He was elected to a large extent because the people were unhappy with the foreign

policy of the previous President and it was, in part, his pledge to take steps in Vietnam, which he has done, which gained him the Presidency. I do not want to do anything to give the people around the world the idea that we are trying to upset the President's power.

In summary, I do not intend to support either of these resolutions. I intend to vote against them because I feel that a vote in favor of them would be a vote for American isolation, a vote to make this country an ingrown, third-rate power, and a vote for dishonoring an American commitment.

I do not care how they butter up this measure. They could include in it mother love, wide roads, sunshine, rain in the deserts of Arizona, and everything we love, but I am not going to vote for it because I think we are tampering with the Constitution. If we feel it should be amended I certainly would be the first one to say yes, and I might even support amendments to the Constitution in this field so that the American people could have the right to vote on it.

Mr. President, I have spoken at some length. In closing I ask unanimous consent to have printed in the RECORD an article which was published in the Chicago Sun Times Special entitled "Must Congress Act to Make War Legal?" I do not have the date of the article, but in it two academic experts disagree over the legal and political issues.

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

**MUST CONGRESS ACT TO MAKE WAR LEGAL?—  
TWO ACADEMIC EXPERTS DISAGREE OVER  
LEGAL AND POLITICAL ISSUES**

President Nixon's April 30 decision to order U.S. troops into Cambodia not only stirred up a new wave of dissent on Vietnam, it revived an almost forgotten issue:

Is an armed conflict, such as the war in Indochina, unconstitutional or illegal because Congress has never declared war?

The relevant words from the Constitution are as simple as the problem is complex: "Congress shall have the power to declare war . . ."

In this encounter, conducted by Chicago Sun-Times reporter Thomas J. Moore, two University of Chicago professors debate the legality of the Indochina war.

Philip B. Kurland, a professor of law and expert on the Constitution, argues that the war is unconstitutional. Morton A. Kaplan, professor of political science and a specialist in international relations, takes the opposite view.

Here is the encounter.

Sun-Times: Congress has never declared war in the Vietnam conflict. Do you believe this makes that war illegal or unconstitutional?

Kurland: I have been saying for years that it is unconstitutional. But the foreign affairs power is totally undefined in the Constitution, and the war power requires more explanation and interpretation than a simple reading of a few words from the Constitution.

Kaplan: I contend that what we have in Vietnam is not a war in the constitutional sense. I would argue that some of the consequences of a state of war do not flow from the state of events in Vietnam.

There are a number of precedents for this—for example, (Franklin D.) Roosevelt's orders to the fleet before the second world war to sink German submarines. From a domestic law standpoint this did not constitute a state

of war. (President Harry S.) Truman's war in Korea is another example. In both cases there was no declaration of war.

Kurland: The essential problem, it seems to me, is not whether there is a technical definition of war, but in essence whether the military powers of the United States are being used against the enemy. When that stage arises, that's what the founders had in mind in determining that a war had to be declared by Congress.

Kaplan: But situations change and become more complex with time. The commerce clause and the fifth amendment have been reinterpreted as conditions would arise. I would argue this is not against the spirit of the founding fathers.

It is, in any event, in conformity with the development of a living Constitution. It also shows great wisdom in the kind of age in which we live.

Sun-Times: The United States has been in armed conflicts before without a formal declaration of war. Don't these incidents stand as precedents for the situation in Vietnam?

Kurland: I would not mean to controvert the proposition that many Presidents in the past have engaged in what I would consider unconstitutional wars.

I do not think this practice legalizes it. Because a large number of murders have occurred does not mean that murder has suddenly become legal.

A President involving the country in an unconstitutional war is a transgression of a fundamental division of powers that was intended to protect the people of the United States from this kind of warlike activity, whether you want to call it war or not.

Kaplan: I think that either Truman or (Lyndon B.) Johnson could have gotten declarations of war—and this would have had consequences for civil liberties in the United States. Also, this would have been unfortunate for the conduct of foreign and military policy.

Kurland: I could agree that a declaration of war would have been unfortunate, but I am not equally certain either one could have gotten such a declaration.

John F. Kennedy—and I take this war back to him—or Johnson or Nixon would have had a great deal of difficulty. I think it is anything but clear that Congress was prepared to declare war.

Kaplan: I agree with you on Kennedy and Nixon, but I think Johnson, during a certain period, could have gotten a declaration of war. But that would have involved distinct liabilities both internationally and domestically.

Moreover, declarations of war, in a large number of circumstances, are exceptionally dangerous in the nuclear age.

One great danger would be the type of actions the President might be pushed into if the electorate were presented with that would have been much more difficult to avoid kind of declaration. I think it would have been much more difficult to avoid attacks on Hanoi, just as during the Korean War it a land war with China.

A declaration of war is dangerous at least partly because of the inability of the American public to understand such a thing as a limited war fought for limited objectives.

Kurland: I too have difficulties with that. But I share with you the feeling of great danger that's involved in the atomic age in the exercise of war power.

That is why I would hedge it to a far greater degree than leaving it to the discretion of the man in the White House.

Sun-Times: Mr. Kaplan, other than the reaction of the American public to a declaration, do you believe there are other dangers involved?

Kaplan: I would hate to see a situation in which we were forced into the alternative of no use of force, or the use of force under

a declaration of war. In the present age these are very limiting alternatives.

The extent to which the presidential finger on the trigger is required is perhaps shown by the extent to which Kennedy kept personal control over what particular ships did during the Cuban missile crisis, or even over particular tanks during certain periods of the Berlin crisis.

It would be enormously dangerous if (a) we were forced into a situation where we had to go to a declaration of war to permit these kinds of acts, and (b) we were forced into a situation where we could not use useful fictions.

For instance, the use of the term "volunteers" by the Chinese during the Korean War, I think, was an extremely useful fiction that permitted limitations on military activities that were desirable to both sides.

Kurland: What was the use of the fiction? We used it at the outset in Vietnam, that we were calling our troops "advisers." We are using it in Laos with exactly the same title. The Russians have used it all over the place wherever they have sent their troops since World War II.

Whom does it fool? What is the fiction?

Kaplan: Certainly statesmen around the world must think these fictions are useful, even though they obviously fool no one.

Kurland: I think they do fool somebody, and the people they fool are those members of the American public who were told by Mr. Kennedy that in Vietnam all we have in effect, is a training team, when in fact we have the beginning of a build-up of armed forces.

Sun-Times: Mr. Kurland, would you comment on Mr. Kaplan's earlier point that a declaration of war might be too dangerous in the nuclear age?

Kurland: I take it the essential difference between us is that he thinks we should not use a declaration of war because that requires that we go to 100 percent enterprise. My suggestion is that the requirement for a declaration of war might reduce this to a zero percent enterprise.

I think that Congress ought to reassert its authority.

Sun-Times: Mr. Kaplan, if a formal declaration could be avoided, would you like to see Congress play a larger role in formulating foreign policy?

Kaplan: I would say that the foreign policy in which Congress plays a major role will be one that's even more incoherent and dangerous than the one we face. I think that foreign and military policy in Vietnam has been sufficiently incoherent without making it more incoherent.

Kurland: Putting foreign relations power back in the legislature from which it has been taken would not result in an efficient foreign policy. It would not result in what you would call a coherent foreign policy.

My difficulty, of course, is that as an amateur reading American foreign policy, I have difficulty finding rationality or coherency in it even now.

In any case the price of efficiency is the price of protection against inadvertent warfare.

Kaplan: I am not going to defend the coherence or rationality of foreign policy even under executive control. I think the deficiencies are great, but by no means equal.

The situation would, in my opinion, be gravely worsened and complicated by a senatorial role.

Kurland: I would like to add another point. The essential trouble in all three branches of government and most of the press and individuals in this country is that they tend to look at the problem in personal terms, not institutional terms.

I don't believe that a President's powers are expanded when you have a Kennedy in office, because you like Kennedy, and are contracted when you have a Nixon, because you don't like Nixon. I think this is the

wrong way to find lasting answers to these extraordinarily difficult issues.

Kaplan: I agree, but I happen to believe it is important that the executive branch has a great deal of freedom in the conduct of foreign policy. And that means freedom even when I consider an action to be wrong or don't like the individuals who run the show.

#### ADDRESS BY SENATOR JORDAN OF IDAHO AT REPUBLICAN STATE CONVENTION AT BURLEY, IDAHO

Mr. HANSEN, Mr. President, the junior Senator from Idaho (Mr. JORDAN) spoke before the Republican State Convention assembled at Burley, Idaho, on Friday, June 12, 1970. As is his custom, the Senator was most perceptive in his observations, and I feel confident Senators would consider it a privilege and an opportunity worthy of the time to read what he said.

Therefore, I ask unanimous consent that his speech may be printed in the RECORD at this point.

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

#### ADDRESS OF SENATOR JORDAN AT REPUBLICAN STATE CONVENTION

We live in troubled times. Not since the Civil War has our nation been so divided. Each day seems to bring a new crisis. It may be in Israel or Peru or Cambodia. Or it may be right here at home.

In the brief time allotted to me I shall discuss only two specific problems, Vietnam and inflation.

One is foreign, the other domestic. Yet the two are closely related as I shall attempt to prove.

These two were chosen after careful study. But they are by no means the only problems we face. I think it might be fairly stated that most of our problems are interrelated. Whether it is unrest on the campuses, racial tensions, high interest rates, high prices, rising unemployment, falling stock market—all have a common denominator. That common denominator is Vietnam and inflation, or more precisely, the relationship between the two.

Vietnam and Cambodia are presently foremost in the news. Yet in the long range, I do not consider our involvement in Southeast Asia as dangerous to our nation as developments elsewhere. I am thinking about the Mediterranean area. There is increasing evidence that the Middle East is more likely to be the next area of confrontation.

During the Easter recess we attended the spring conference of the Interparliamentary Union at Monaco. Forty four nations were represented, including Russia and other nations behind the iron curtain. I think it is important that the U.S. be represented at such a conference because I am convinced that lasting peace will never result from shooting wars, but it just might come from contacts of people to people with a free and open discussion of mutual problems. Peace is more likely from a communication of ideas than an exchange of missiles.

While there we received briefings on the situation in the Middle East. Frankly, it is not good.

After the six day war in 1967, during which Israel destroyed Egypt's fighting potential, Russia set about, not only to replace the planes and tanks and munitions that were destroyed, but to replace them many times over.

Egypt and her allies are now much stronger than they were before the war. Russian anti-aircraft batteries have been installed in Egypt and Russian pilots are flying Russian Migs on patrol.

After Easter dinner on board the U.S. Carrier Forrester off the southern coast of France, we were briefed on the rapidly increasing strength of Russian naval presence in the Mediterranean.

The overall impression I have from that trip is that Russia is planning for offensive as well as defensive action in that area.

But Vietnam is like a bad dream that won't go away. It requires our immediate attention.

Before Cambodia, a fair degree of public consensus seemed to exist about Vietnam policy. Large numbers of Americans approved the Administration policy of withdrawal of forces from Vietnam, which would give the South Vietnamese a fair chance to carry the burden after we left, but which would not make Americans responsible for the outcome.

Most Americans seemed reasonably satisfied with the prospect. No target date existed for completing our withdrawal but 115,000 troops had already been withdrawn with the promise of an additional 150,000 in another year. Thus it was assumed that complete withdrawal could be achieved in the same orderly fashion. Public attention had started to shift away from the war to matters of grave domestic concern—inflation, environment, problems of the cities, unemployment, etc.

Reactions to the Cambodian operation undermined this consensus. Vocal opinion polarized between pleas that we accept defeat and get it over with, or that we set our sights on all out victory. I shall not take time here to discuss either because I do not consider them to be realistic options. Neither, in my opinion, offers a basis for restoring the previous consensus and without consensus there can be no effective Vietnam policy.

The problem is how to restore that lost consensus. Revived again, in loud and angry tones, are all the questions about our original involvement and doubts about the credibility of our disengagement.

Viewed strictly as a tactical military maneuver the probability is that the Cambodian "surgical operation" has sufficiently upset the North Vietnamese Vietcong setup so that it cannot retaliate in any meaningful way for several months after the monsoon season is over.

Left unanswered at this moment is what is our long range Vietnam policy. The American purpose ought to be to return its focus to Vietnam. Such was President Nixon's intention on May 8 when he declared that all U.S. forces would be out of Cambodia before June 30. He said:

"I would expect the South Vietnamese would come out approximately at the same time that we do, because when we come out our logistical support will come out with them."

If the Cambodian operation is as success and we escape long range Cambodian involvement, the framework will have been set for a return to the original consensus for disengagement in an orderly manner.

The key to present unease in the Nation is less doubt about when we will have Cambodia than where we are headed over the long term in Vietnam. Only the President can remove this uncertainty. It will be difficult for him to do this without speaking to an issue on which ambiguity has hitherto seemed feasible and even desirable.

What should be the U.S. role in Vietnam after planned withdrawals are completed in early 1971 which would reduce pre-Nixon forces in Vietnam by about 50 percent. Two alternatives emerge and the choice between them hinges largely on how we see our long term purpose:

1. One view is that we shall not permit either Russia or China to become the dominant power in Asia. If this is our purpose we should make sure, beyond any doubt and by whatever U.S. effort is required, that a non-communist South Vietnam survives for the foreseeable future—in much the same

way as we are committed by our presence in Western Europe, to insure that communism does not take over that area. This means that our forces might be in Vietnam for a long time. We have been in Europe since World War II.

It is hard to see a national consensus being built around the proposition that we should maintain a substantial military presence in Vietnam for years to come. Personally, I cannot endorse this concept.

2. An alternative view is that our purpose should be to give the South Vietnamese time and opportunity to take over from the United States, while recognizing that the ultimate responsibility is theirs. Under this view, it should be possible to continue to reduce our military presence steadily and to set a date—say late 1972—by which time our obligation would have been discharged and U.S. withdrawals could be completed.

This schedule could be stretched out if the other side tried to take advantage of our withdrawals by stepped up attacks on U.S. forces; or it could be compressed if the other side agreed to mutual de-escalation before we withdraw.

Total withdrawal should not be made without complete release of all American prisoners of war now held by the enemy. This point should be made crystal clear.

I choose the latter course because I believe that this course has the best chance to provide a durable peace. In effect it would be restoring and implementing what I understand the Nixon doctrine to be.

Let us not forget: President Nixon is the President who has been reducing forces in Southeast Asia, not building them up.

It is this President who has decided it is time to turn the war back to its rightful owners—the Vietnamese. And he has done more than undertake the program for Vietnamization.

At the Paris talks we have offered the complete pullout of all our forces within one year, if the enemy would agree to do likewise.

We have offered to negotiate all issues with only one condition—that the future of South Vietnam be determined by the people of South Vietnam. President Thieu with our endorsement, has proposed internationally supervised elections. These elections would be open to all political parties and groups—including the National Liberation Front.

The enemy has used the Paris peace talks only as a forum for propaganda.

In support of the Nixon doctrine there are many advantages.

With a definite withdrawal schedule established, it will be possible to reorder spending priorities of our national budget and to provide a definite timetable for achieving some of the domestic goals which are presently either unattended or simmering on the back burner.

A national commitment for disengagement by a time certainly would go a long way to restore America's confidence in America's traditional objectives. Those objectives are better and equal opportunity in education and employment for all our people, better health, better housing, better environment, and a sound dollar that will encourage thrift both nationally and personally.

When I speak of traditional objectives I do not limit these to solely what government can do. I speak rather of those national and traditional objectives which are the combined goals of both the public and the private sectors as well as the hopes and aspirations of each of us as human beings and Americans.

As long as the U.S. commitment in Vietnam is open-ended we cannot proceed with definite programs to achieve these objectives.

Let us now consider the problem of inflation.

*First*, what are the causes of inflation? Here is the record of the 1960's in capsule form:

Total collection for the 10-year period are one trillion thirteen billion dollars.

Expenditures for the 10-year period: For defense, six hundred twenty two billion dollars or nearly two thirds of the total;

For economic and social domestic programs (which include Natural Resources Commerce and Transportation, Community Development and Housing, Education and Manpower Training, and Health) the sum of one hundred ninety billion dollars, or about 19% of the total;

For all other (including Interest on the national debt, Veterans Benefits, Foreign Aid, the total cost of administering all three branches of Government, Legislative, Executive and Judicial), the sum of two hundred fifty two billion dollars or about 25% of the total.

Total expenditures for the ten year period, 1960 to 1969 inclusive, is one trillion one hundred seventy billion dollars.

During this ten year period expenditures exceeded collections by fifty seven billion dollars. This deficit fueled the fires of inflation.

*Second*, who pays for increased spending by the Federal government?

The taxpayer, of course. Between 1960 and 1970 federal tax collections had nearly doubled, from \$74 billion in 1960 to \$145 billion, with the greatest increase (125%) in individual income taxes.

The following table illustrates this point:

COLLECTIONS		
[In millions of dollars]		
	1960	1970 estimate
Individual income tax.....	40,791	92,200
Corporation income tax.....	22,494	37,000
Excise taxes.....	11,676	15,940
Total.....	73,961	145,140

*Third*, who pays for inflation?

1. Consumers—that means everyone.

The consumer price index has risen from 103.1 in 1960 ('57-'59=100) to 131.3 in Dec. 1969, but 21.4 of this was during 1966-1970, the Vietnam War years.

Inflation hits hardest those who can least afford it—all who are on marginal fixed incomes, and especially the elderly, the blind, the physically disabled, whose meager incomes must largely be spent for the necessities of life.

2. Workers.

Non-agricultural workers have gained almost 50% in average gross hourly earnings up from \$2.09 to \$3.11, but the real gain is not 50% but 13% because of inflation and this was all achieved in the first five years of the decade. The worker has been on a treadmill during the Vietnam war years.

3. Investors.

Investors pay for inflation, too. Millions of thrifty Americans have watched their life insurance and their pension funds reduced substantially by inflation. Common stock prices are down 30% to 35% from the high. Bonds and other fixed income securities have depreciated in value as interest rates have increased to historic highs.

Borrowers of all kinds have been compelled to pay more, and credit has been less available, curtailed over the past five years by restrictive monetary policy applied by the Federal Reserve System.

4. Home buyers and Housing Industry.

High interest rates and unavailability of credit has particularly hurt the housing industry.

Yields on FHA new home mortgages rose from 5.46% in 1965 to 8.4% in December 1969.

New housing starts had dropped to an annual rate of 1¼ million in December which is less than half the annual rate necessary to achieve the national homebuilding goal of 26,000,000 family units for the decade of the 1970's.

The housing problem is one of the most acute national problems not met because of the vast call on Federal resources by Defense.

*Fourth*, is it sound economic analysis to blame high defense spending for inflation? I think it is.

It is not accidental that throughout history wars have been marked and followed by acute inflation.

French currency collapsed after years of supporting Napoleon's armies.

Most allied nations' currencies except ours suffered devaluations after World War I. (Our involvement in that war was short and we became a major creditor nation.)

U.S. currency declined about half in purchasing power through World War II and the Korean war, though the erosion was masked by wage and price controls, materials allocations and selective credit controls.

In the recent Vietnam war period none of these devices has been used to reduce the pressure of defense and war spending on the civilian economy.

The impact of expanded defense spending on the civilian economy affects some sectors more than others. When the build-up began in 1965-66 it pressed against a civilian economy going full blast, with high utilization of plant, equipment, professional and technical personnel and work force.

The "Guns and Butter" concept as enunciated by President Johnson in his 1966 State of the Union message was a fallacy. It was the priorities for non-defensive spending that had to suffer. Moreover, the effects of that philosophy set in motion the forces of inflation from which we have not yet recovered. The momentum of inflation is still with us.

A major part of military purchases involves goods for which no market exists and there is no benchmark for setting prices, hence the Pentagon sets prices on the basis of "cost analysis." This is a very complex procedure. Vast cost overruns are permitted. Testimony before the Joint Economic Committee on which I serve disclosed as much as \$10 billion of questionable charges to the government for a one year period on defense procurement contracts alone.

Two classic examples are:

120 C5A intercontinental jet transports at \$5.2 billion instead of the original estimate of \$3.1 billion.

The original calculated cost of the F-111 program was \$4.9 billion. By 1968 the cost of 1700 planes would have been \$14.6 billion. Both of these programs are still in controversy.

To summarize in one sentence:

The depletion of our resources by excessive and wasteful military spending is a central element of inflation.

*Fifth*, cures for inflation.

A. Short range.

1. Fiscal and monetary policy continue essential. The President and the Federal Reserve System must maintain their courageous but not always popular stand for reduced spending and restrictive, though flexible monetary policy. To avoid a worse recession, the supply of money has recently been increased by the Federal Reserve.

The fight against waste must be continued with increasing dedication. This must be at all levels and in every department and agency of government.

2. The Administration should discard forthwith the "unified" budget concept and return to the more realistic and better understood "receipts and expenditures" concept.

Because the unified budget includes credit balances in the trust funds such as Social Security, Highway, and Railroad Retirement, a budget may be said to be in balance when it is actually \$7 to \$8 billion in the red.

3. In lieu of wage and price controls the Administration should adopt a "national incomes" policy. All that is involved here is to require the Council of Economic Advisors to issue monthly reports on the implications of important price decisions and wage agreements, thus bringing immediately to public attention two of the factors by which inflation is measured. Public disclosure should induce a voluntary restraint on both prices and wages.

Chairman Arthur Burns of the Federal Reserve Board has recommended this approach. He is supported by all Republican members of the Joint Economic Committee.

#### B. Long range.

1. Missile development and nuclear deterrent.

At present the U.S. and the U.S.S.R. appear to have achieved a level of approximate nuclear parity. If either alters this delicate strategic balance of terror, the consequences are unimaginable.

The Strategic Arms Limitation Talks (SALT) are of immense importance to both sides. If they fail, and each goes into a new phase of offensive and defensive missile development, the costs to each are likewise impossible to estimate.

What security could be achieved?

Then as now the Americans and Soviets could destroy each other's civilization. Surely, another round of the missile race must be avoided by both powers. The economic future of both countries depends on the success of the SALT talks.

#### 2. Conventional War.

President Nixon has announced a new and wise foreign policy which in essence is: Let Asians take care of Asian problems.

But can he succeed in the orderly and complete withdrawal from Vietnam and avoid further involvement in Cambodia, Laos and other countries history.

I believe he can. Meanwhile our nation pays the price—the most devastating and costly in men and money and morale of any war in our nation's history.

So, if inflation is to be halted the military spending must be brought under control.

Only then can we turn our attention more directly to the job of reestablishing our national priorities for the good of mankind rather than for his destruction.

I conclude by reporting what I said at the start:

"We live in troubled times. Our nation is divided." We need to be brought together again. We must get back on course by reasserting our national objectives and re-deploying our resources to meet those objectives.

Confidence in America can be restored but not until Vietnam is behind us. The President has said there will be no more Vietnams. He is working hard to end this war. We should get behind him. A solid American consensus in support of our Commander-in-chief would convince Hanoi that prompt negotiation is the best course. We must all work for an orderly and complete disengagement on the mainland of Asia.

The fortunes of Republican candidates in 1970 and 1972 may rise or fall on how well our Administration meets the challenge of today's problems.

Mr. GOLDWATER. Mr. President, I yield the floor, and 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. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

### AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. HANSEN. Mr. President, for several weeks now the Senate has been debating an amendment proposed by Senators CHURCH and COOPER to terminate U.S. involvement in Cambodia.

A growing number of Senators, believing in the importance of a consistent universal U.S. position toward communism; feeling that America's credibility will be judged by other nations on the basis of what we do rather than what we say; holding that we can best limit war by demonstrating our support for principles to which we subscribe, are becoming increasingly disturbed by the inconsistency of actions which would result from policies recommended by some for Southeast Asia and the Middle East.

In order better to understand our misgivings I ask unanimous consent that an article from today's National Observer be printed in the RECORD.

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

#### DOVES ON ASIA TURN TO HAWKS ON MIDDLE EAST

(By Wesley Pruden, Jr.)

An ugly name-calling match may be brewing over whether the United States should step further into the widening war in the Middle East.

Some of the leaders of the peace movement (Asian style) are taking up the fight for Israel, declaring that only a deeper, more costly American involvement can ensure the survival of the Jewish nation.

Senators who are pushing hardest to curb the President's power and authority to conduct the war in Indochina are pressing the President toward what could be a confrontation with the Russians in behalf of Israel.

Others here in Washington, seeking to avoid such a confrontation, argue that even the sale of more military hardware to the Israelis would be a step closer to involving America in another war.

#### WILLIAMS AND JAVITS

Last week, when the Senate debated a resolution that would force the President to end the Vietnam War by the end of this year, sparks flew when Sen. John J. Williams of Delaware, a Republican, wanted to strike the part of the resolution that exhorts the President to make arms available to Israel as needed. Sen. Jacob K. Javits of New York, also a Republican, wanted to keep the exhortation.

What could make the argument turn ugly is the fact that many of the Middle East hawks are Vietnam doves—and many Vietnam hawks are doves about getting further involved in Israel's behalf.

Many young people in the radical left, to whom war protest has become a way of life, feel no particular tie to Israel or its survival. It's not at all certain how they would react to the United States getting out of a war in Asia only to get involved in another one in the Middle East.

Suggests one young congressman: "If that happens, we'll all yearn for the good old days

when the kids were content with burning down colleges."

So far, there's no overt hostility toward Israel. Many Vietnam hawks, notably including Barry Goldwater of Arizona and John Tower of Texas, two Senate Republicans who have consistently supported a hard line in Asia, want a firm U.S. presence in the Middle East. Others, who are wary of a further Middle East involvement, nevertheless wish Israel no harm.

#### MISCHIEF POTENTIAL BIG

But the mischief potential is a big one in a nation already sundered by bitterness over the war, and many of the Israeli hawks are campaigning from a defensive posture, anticipating a storm of argument.

Dovish Sen. George McGovern of South Dakota, who tried to win the Democratic President nomination in 1968, took the occasion of a national convention of the American Jewish Congress to disclose a letter to the President that he and six other peace (Asian style) senators had written urging increased U.S. aid to Israel.

A few days later, the American Jewish Congress ran the letter in a large fund-raising advertisement in the New York Times under the headline: "There are fundamental differences between the situation in Indochina and the situation in Israel."

The headline had, in fact, been lifted from the letter, in which Senator McGovern had been joined by Alan Cranston of California, Thomas F. Eagleton of Missouri, Philip A. Hart of Michigan, Harold E. Hughes of Iowa, and Stephen M. Young of Ohio, all Democrats, and Sen. Charles E. Goodell of New York, a Republican.

"We who are among those who believe that our country must disengage from the Indochina war are concerned that the Soviet Union may be misinterpreting the spirited national debate in America over that war as a sign that our nation will not take effective steps to protect our vital national interests in the Middle East.

#### VITAL NATIONAL INTERESTS

"We are joining in this statement to make plain our deep conviction that our vital national interests are, indeed, involved in preserving the balance of power in the Middle East pending a final settlement of the Arab-Israeli dispute.

"There are fundamental differences between the situation in Indochina and the situation in Israel.

"The government of Israel is a democracy. This is not true of the regimes our armed forces are supporting in Southeast Asia. Israel asks only that we sell her the military equipment she needs to defend her freedom.

"South Vietnam, Cambodia, and Laos ask that we give them—not sell them—the military equipment to defend their own forms of repression against other forms of repression. Worse yet, they ask that we spill American blood and spend American lives in their behalf. Israel makes no such demand on us.

"But now we see the open use of Soviet pilots and Soviet troops in Egypt—an unprecedented assertion of Soviet power which threatens not only Israel but world peace. In providing Israel weapons to retain the balance of power in the Middle East, we would be fulfilling the doctrine which you announced at Guam, and your subsequent call for 'a more responsible participation by our foreign friends in their own defense.'

#### "COMBINATION OF MISINTERPRETATIONS"

"The new Soviet intervention in the Middle East may well stem from a combination of Soviet misinterpretations, not only of the national debate over the Indochina war, but of the Administration's decision to withhold the sale of the jets Israel has requested.

"So we urge that you make available to Israel the aircraft she needs. We also urge that you take whatever steps are appropriate

to demonstrate both our willingness to work for peace in the Middle East and the firmness of our support for Israel and for those moderate Arab governments also threatened by the Soviet expansion. . . ."

Significantly, though all are antiwar, not a single signer of the letter is a Jew. And, a few days ago when a group of 73 senators signed a similar letter to the President urging him to sell 25 Phantom supersonic jet fighter-bombers and 100 Skyhawk fighter-bombers to Israel, one of the Jewish sponsors of the letter, Democratic Sen. Abraham A. Ribicoff of Connecticut, took pains to point out that many of the signers lived in states "where the Jewish constituency is quite small."

J. William Fulbright of Arkansas, who is perhaps the No. 1 Senate foe of the Vietnam War, did not sign, but neither did any of his colleagues on the Senate Foreign Relations Committee. Nor did Mike Mansfield of Montana, the Democratic leader in the Senate, who is often critical of the U.S. role in Asia.

Most of the 27 senators who ignored the letter were conservatives from mostly rural states who have either supported the Vietnam War or who have not consistently opposed the U.S. role in Southeast Asia. One of the exceptions is Eugene J. McCarthy of Minnesota, who sought the Presidency in 1968, to end the Vietnam War; another is Mark Hatfield of Oregon, who was elected on an antiwar platform.

#### THE ROAD TO PEACE?

Opposition to a larger American stake in the Israeli-Arab war is clearly organizing.

Last week, a new national group called the Middle East Affairs Council ran an open letter of its own, published in a large advertisement in the Washington Post, arguing that jets for Israel was not a road to peace but the route to another Vietnam.

Some of the arguments are reminiscent of the arguments used against American attacks on North Vietnam: Relentless Israel bombardment has toughened Egyptian resolve to resist; Egyptian installation of ground-to-air missiles is a defensive reaction; giving Israel additional offensive weapons—such as the Phantoms—could be interpreted by the Egyptians to mean that the United States considers Egyptian defense of its territory unacceptable, which would drive the Arabs further from the Americans.

Last Friday Senator Williams of Delaware offered two proposals that critics said impeded arms delivery to Israel. Both were defeated after debate in which Senator Williams drew parallels with last week's voting on Cambodia and said: "These are sophisticated weapons in most instances, and when they are sold under this authority the President can send his advisers to these countries to advise them on how these arms are to be used. The next step is sending in a few troops to protect these advisers. And then more troops will be sent in to protect those troops. The next thing we know we are involved in a war."

There is, in fact, considerable argument within the State Department over whether the United States might not be contributing to the deterioration in the Middle East by selling the Phantoms to Tel Aviv.

The "Arabist faction" within the State Department argues that Israeli "deep penetration raids" into Egypt are what started the latest round of escalation—that more Phantoms would only invite more Russians. The best strategy for now, they argue, is to hold off and allow the presence of Russian advisers to evoke anti-Russian sentiment among the fiercely nationalistic Egyptians, much as a large American presence has created problems for the United States in Asia.

#### ESTIMATING RUSSIAN ROLES

They argue further that so far the Russian pilots in Egypt have been circumspect

and restrained. By one official U.S. reckoning, the Russian pilots are limited to three roles.

They fly (1) routine check-out missions, to become familiar with the geography and climate conditions; (2) training missions with Egyptian student pilots, and (3) simulated intercept missions, trying to anticipate maneuvers against Israeli pilots.

There is a fourth category. These are actual intercept missions, and U.S. sources say Russian pilots flew three or four of these between April 23 and May 15. These missions can be tracked because the Russians change their radio frequencies when switching from training to combat missions.

In each of them, however, the pilots were held within the eastern branch of the Nile after it divides at Cairo to form the boundaries of the Nile delta.

#### GOAL REASSESSED, SAY ISRAELIS

These restrictions might not be permanent. Last week in Tel Aviv, Israeli government sources said privately that Russia's goals in the Middle East had been reassessed: "We are no longer convinced that all the Russians want is to maintain a state of controlled tension in the area." Prime Minister Golda Meir was even plainer in a speech to the nation. She said: "The Soviet Union in pursuit of its scheme to dominate the Middle East does not care if Israel goes up in flames."

In the United States, no less than in Tel Aviv, friends of Israel take small comfort in restrictions on Russian pilots. But others here, who may or may not be friends of Israel, will be difficult to persuade that another war anywhere is in American interests. The political brawl that lurks beneath the surface of the debate, which is just beginning, could be a mighty one.

The PRESIDING OFFICER. What is the will of the Senate?

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

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

#### RESPECT FOR THE OFFICE OF PRESIDENT

Mr. BAKER. Mr. President, last Thursday during remarks that I made on the Senate floor, I suggested that in many ways the Presidency of the United States resembles a constitutional monarchy. The President of the United States serves many of the symbolic functions of a monarch, and his ability to lead the people is greatly enhanced by his capacity to earn "investiture" by the people. If the people, who are sovereign, withhold royalty from any President, his capacity to lead is diminished; once they grant this royalty, they will follow him anywhere.

I have just read a press release containing excerpts from a commencement address delivered at Milton College on June 7 by our distinguished colleague from Wisconsin (Mr. PROXMIRE). I am most impressed by the point that is made by Senator PROXMIRE, which is that even those who disagree with certain policies of any President should nonetheless show respectful attention to the Office and the

person of the President. I have personally been disturbed in recent weeks by the occasionally vicious and personal tone of some attacks against the incumbent President. And I am thus particularly encouraged that a man so widely respected as Senator PROXMIRE, and a man whose differences with this President on important matters of domestic and foreign policy are well known, should speak out so responsibly, reasonably, and maturely in support of the Office and person of the Presidency. I ask unanimous consent, Mr. President, that the press release containing excerpts of remarks by Senator PROXMIRE at Milton College on June 7 be printed at this point in the RECORD.

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

#### PRESS RELEASE

Senator William Proxmire (D-Wis.) Sunday called on students to show respectful attention to both the office and the person of the President of the United States.

Proxmire was the principal speaker at the commencement exercises at Milton College in Milton, Wisconsin.

The Wisconsin Senator said, "The President of the United States not only occupies the most powerful office on earth. He must also make the most agonizing and painful decisions.

"This is particularly true in wartime. It is especially true when the war is unpopular. And we have never fought a less popular war than this one.

"As free citizens we have every right, in fact, we have a duty to speak out when we disagree with the President. The fact that students and many others have done this all over America in recent weeks in protest against Cambodia, is a wholesome sign that democracy is thriving.

"But that criticism has not been confined—as it should have been—to a difference over the President's decision. The President has been personally attacked. His motives and character have been assaulted cruelly and unfairly.

"In my view, Mr. Nixon made a tragic mistake in Cambodia. He was wrong. But the President is a decent and intelligent man. He is doing his honest best to end the Vietnam war as swiftly as he can.

"It is a fact that he has been responsible for the peace-directed reversal of the war escalation policy of the previous Administration. The number of troops has been steadily drawn down since he took office.

"He has promised that another 150,000 troops are coming out within the next year. There is every reason to expect he will keep that promise.

"He has enunciated a great policy for peace in the Nixon Doctrine at Guam. This will permit us to reduce our overall military force by one million now. It will help end the draft. It will help keep us out of future wars.

"I think the President has made some serious blunders in handling our economy. I haven't been reluctant in saying so.

"But we should never forget that as Americans we have an invaluable legacy in the Presidency of the United States. When we mindlessly demean and personally attack the President of the United States we enfeeble an institution that holds this country of ours together—that gives us the prime driving force we have as a nation in achieving peace in the world.

"If peace is to be earned in this dangerous nuclear world, a President of the United States must lead the way. Congress cannot do it. The Courts cannot do it. Not even the people—with the best will in the world—can do it.

"Only the President—and a President who has the respectful attention of virtually all of the American people can do it.

"This should not paralyze protest. It should not inhibit criticism. But it should persuade us to credit the President for the good he is doing and make our criticism aimed at those Presidential policies with which we disagree—never at the President, his character or his motives."

#### JOE FISER AND "PROJECT THANK YOU"

Mr. BAKER. Mr. President, throughout the history of this great country it has been individuals through their own initiative, integrity, and love of God, country and fellow man, who have come up with just the right action to put difficult situations in the right perspective.

While it is the demonstrators who burn and destroy who get the maximum coverage in the news media, there are those who are quietly promoting patriotism and support for our forces serving in foreign lands. They go, without fanfare, about the business of displaying loyalty to this country and what she is trying to do in a difficult world.

Such an individual is a constituent of mine, who, in my judgment, is going beyond the call of duty to promote harmony among all citizens and to encourage support for our country and her undertakings. That individual is Joe Fiser of Springfield, Tenn. I am confident that what Mr. Fiser is doing in Springfield is being done in hundreds of communities around the country and I believe they deserve all the recognition we can muster. And while I am not advocating that his way is the way that every single American should show his appreciation for this great land, I do say that his way makes me proud that he is a fellow Tennessean.

Joe Fiser is a rural mail carrier who just a little more than a year ago opened a restaurant in Springfield. Until recently he was content to give away American flags and to talk for Americans. Then through a 16-hour broadcast over Radio Station WLAC in Nashville, Tenn., he became interested in "Project Thank You." In this regard

WLAC Radio should be commended for its participation in this project.

"Project Thank You" is an undertaking of the Christian Reformed Laymen's League of Grand Rapids, Mich. The membership of this league volunteers its time and efforts in working with radio stations to produce marathon broadcasts in support of the project. Money raised in these broadcasts is used by members of the Christians Reformed Laymen's League to purchase the eight most needed items for troops in the field.

While Joe Fiser has been in the restaurant business only a short time, he wanted to do something to help "Project Thank You." To show his support for our troops he pledged 1 day's receipts to the project. The day he set aside for this contribution there were cash sales of \$706.41 and donations of \$309.90, so that he raised a total of \$1,016.31, enough for the purchase of about 1,500 "Thank You" packets. It was the largest single donation ever made to the project.

But that is just one of Joe Fiser's activities.

Prior to that effort he had given away about 60 American flags in drawings. He contributed two flagpoles to churches for use in front of the buildings. He gave another flagpole to a mother whose son was killed while he was piloting a jet. He has given away more than 3,000 American flag lapel pins.

Inside his restaurant is a 6-foot-wide reproduction of "The Star-Spangled Banner," on which three spotlights are focused 24 hours a day.

What Joe Fiser is doing was brought to my attention by his neighbors and officials of radio WLAC. I know that my colleagues will want to join me in congratulating Mr. Fiser, extend to him our warmest thanks for a job well done, and to encourage him to continue in his efforts.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. KENNEDY. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the Senator from Oregon (Mr. HATFIELD) tomorrow, the Senator from New York (Mr. JAVITS) be recognized for not to exceed 30 minutes.

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

#### ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 3 o'clock and 50 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, June 16, 1970, at 11 a.m.

#### NOMINATION

Executive nomination received by the Senate June 15, 1970:

##### U.S. ATTORNEY

George Beall, of Maryland, to be United States Attorney for the District of Maryland for the term of four years vice Stephen M. Sachs, resigning.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate June 15, 1970:

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Elliot L. Richardson, of Massachusetts, to be Secretary of Health, Education, and Welfare.

Edward F. Zigler, of Connecticut, to be Chief of the Children's Bureau, Department of Health, Education, and Welfare.

##### DEPARTMENT OF THE TREASURY

Samuel R. Pierce, Jr., of New York, to be General Counsel for the Department of the Treasury.

## HOUSE OF REPRESENTATIVES—Monday, June 15, 1970

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Lift ye up a banner upon the high mountain, that men may go into the gates of the nobles.—Isaiah 13: 2.*

Oh God of Truth and Love, we come to Thee this day as we unfurl the starry banner of our life as a nation and celebrate its birth. Floating high in the air may it ever speak to men of liberty and justice, of peace and good will. Wherever it goes, whenever it is seen, may it bring hope to the oppressed, freedom to those in bondage, and light to all who sit in darkness.

Under this banner and by Thy grace may we keep moving forward toward the goal of a free world at peace, with liberty and justice for all. To the glory of Thy holy name. Amen.

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#### THE JOURNAL

The Journal of the proceedings of Thursday, June 11, 1970, was read and approved.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following date the President approved and signed bills and a joint resolution of the House of the following titles:

On June 12, 1970:

H.R. 4813. An act to extend the provisions of the U.S. Fishing Fleet Improvement Act, as amended, and for other purposes;

H.R. 11628. An act to transfer from the Architect of the Capitol to the Librarian of

Congress the authority to purchase office equipment and furniture for the Library of Congress;

H.R. 13816. An act to improve and clarify certain laws affecting the Coast Guard; and  
H.J. Res. 1069. Joint resolution extending for 4 years the existing authority for the erection in the District of Columbia of a memorial to Mary McLeod Bethune.

#### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2012. An act to amend the Act of October 25, 1949 (63 Stat. 1205), authorizing the Secretary of the Interior to convey a tract of land to Lillian I. Anderson;  
H.R. 9854. An act to authorize the Secre-