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Senate

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MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 13816) to improve and clarify certain laws affecting the Coast Guard.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 646) providing for an adjournment of the House of Representatives from Wednesday, May 27, 1970, until 12 o'clock meridian, Monday, June 1, 1970, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (S. 952) to provide for the appointment of additional district judges, and for other purposes.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

The ACTING PRESIDENT pro tempore (Mr. MERCALF). The Chair recognizes the Senator from Kansas.

Mr. DOLE. Mr. President, I send an amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The BILL CLERK. The Senator from Kansas (Mr. DOLE) proposes an amendment as follows:

On page 4, line 21, insert "(a)" after "Sec. 7."

On page 5, between lines 18 and 19, insert the following new subsection:

"(b) The provisions of subsection (a) of this section shall be inoperative during any period that the President determines that citizens or nationals of the United States are held as prisoners of war in Cambodia by the North Vietnamese or the forces of the National Liberation Front."

Mr. MANSFIELD. Mr. President, may I respectfully request that the floor be cleared of all attachés except those who

have business in the Chamber and that Senators be required to take their seats.

The ACTING PRESIDENT pro tempore. The Senate will be in order. The Senate is not in order.

All attachés who do not have business in the Chamber are asked to leave the floor immediately. The Senate will be in order.

Mr. DOLE. Mr. President, I have offered an amendment that I believe will add real meaning to the Cooper-Church amendment and go a step toward reassuring Americans now in combat that their Nation and their President and their elected representatives will not desert them.

I am certain no Senator wishes for a second to be misunderstood on this score. Every Senator has the interests and the life and the welfare of every American serviceman at heart, with special feeling for those in combat or for those who have been captured in combat.

My amendment will put the Senate on record in support of those men in a way the entire world can understand and in a way that free men everywhere will applaud.

Mr. President, it is known that American soldiers and at least two American journalists have been held captive in Cambodia by the Vietcong and the North Vietnamese prior to the American strike into the Cambodian sanctuaries. As far as we know, they still are there.

The two journalists were captured in early April. American servicemen have been captured from time to time in South Vietnam and transported across the border into Cambodia where, our government has been reliably informed, they have been held in prisoner of war camps.

Mr. President, let me restate the amendment at this time:

On page 4, line 21, insert "(a)" after "Sec. 7."

On page 5, between lines 18 and 19, insert the following new subsection:

"(b) The provisions of subsection (a) of this section shall be inoperative during any period that the President determines that citizens or nationals of the United States are held as prisoners of war in Cambodia by the North Vietnamese or the forces of the National Liberation Front."

It is obvious that the enemy has in-

deed regarded the Cambodian sanctuaries as North Vietnamese territory, to hold, probably, in perpetuity.

Any irrevocable decision on our part to quit Cambodia, never to return, could well mean that American men will spend the rest of their lives in North Vietnamese prison camps in Cambodia. I cannot conceive of any Senator acquiescing to this kind of fate for men who have fought in the service of their country. I cannot conceive of any American being willing to do nothing while American soldiers spend their lives in a foreign prison, literally abandoned by their country.

For that reason, Mr. President, I have offered an amendment to the Cooper-Church amendment—that says the Cooper-Church amendment will be inoperative so long as, and at any time that, American prisoners of war are being held in Cambodia by the North Vietnamese or the Vietcong.

Mr. President, I do not believe we can do less. I do not believe Americans can abandon their fellow Americans to a cruel and ruthless enemy. How can we ever explain that to their parents, wives, and their children, or to our children?

Mr. President, the debate on the amendment of the distinguished Senators from Kentucky and Idaho has focused attention on several crucial points of our policy and objectives in Southeast Asia. I would take this opportunity to commend once again my colleagues for the sincere concern and high purposes which motivate their efforts.

One aspect of the limitations which the Cooper-Church amendment on the President's authority to protect Americans in Southeast Asia concerns me very deeply. This point was raised briefly by the Senator from Texas (Mr. TOWER) in a colloquy with the Senator from Kentucky on May 21.

The following exchange ensued:

Mr. TOWER. Let me pose a question to the Senator from Kentucky. Suppose the President determined that a number of Americans were being held captive across the border in Cambodia. Would this amendment restrict him or tie his hands as he sought to liberate those prisoners?

Mr. COOPER. I think it would, by language, I will be honest, but the decision of authority, would be the President's.

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Mr. TOWER. It would prevent liberation of American captives over there.

Mr. COOPER. Unfortunately, many of our men are held captive in North Vietnam. We have had no success in freeing them. North Vietnam has refused to obey the Geneva Conventions with respect to the treatment of prisoners. But do we continue to rely, if we can, upon international rules as a settlement to try to secure the release of those prisoners, or is the Senator asking whether we should engage in a larger war in an attempt to free them?

As the distinguished Senator from Kentucky stated, his amendment would restrict the President in a situation such as the Senator from Texas posed. If American prisoners were known to be held in Cambodia—even within a few miles of the border—the Cooper-Church amendment, by its language, would not permit a rescue operation to be launched into Cambodia to save them.

Whether we are talking about one or two prisoners or a whole detention center, the Vietcong and North Vietnamese would enjoy the use of Cambodian territory as a sanctuary for the detention of prisoners taken in any and every part of Indochina. We might see develop a new sort of Ho Chi Minh trail, this time for American servicemen taken prisoner in South Vietnam. Once in Cambodia, the enemy would have a secure and unassailable base to detain, harass, and propagandize the men in their hands.

Imagine the men who would be the victims of this practice and how they would feel to know that there was no hope, however slim, that friendly troops might come to their rescue—because of limitations placed on the Commander in Chief's powers.

TREATMENT OF AMERICAN PRISONERS

If there is one issue today in our country that truly transcends all differences, it is that of the treatment accorded captured U.S. military personnel. The United States has always maintained a strict national policy of fair and civilized treatment for prisoners of war, and Americans of all political and philosophical persuasions have expressed their outrage and indignation over the unconscionable attitude and actions of the Vietcong and North Vietnamese toward American prisoners of war held by them.

We have had testimony which fully documents the humiliation and abuse to which captives have been subjected as well as the unpardonable manipulation of information on the status of prisoners and missing men.

These tactics strike a universal chord in all men of decency and honor, and we have seen the response in Congress. In the Senate and House, Members from both parties have exerted determined efforts to obtain information about prisoners, exert congressional authority and prestige in their behalf, and secure aid for their families.

Mr. President, I would say that every Member of this body and probably every Member of the other body has had some contact with the families, the mothers, wives, or children, of men who are missing in action or prisoners of war in Southeast Asia. On May 1, in an effort to pay tribute to these brave and gallant

men a meeting was held in historic Constitution Hall. At that time nearly 1,000 mothers, children, and wives of Americans missing in action and American prisoners of war and thousand of others joined to pay tribute to these 1,529 gallant men, missing and being held captive by the enemy somewhere in Southeast Asia, very likely some in Cambodia.

Constitution Hall was filled to give ringing support to these men and draw the attention of all men of conscience and compassion to the plight of these gallant Americans. This was a bipartisan effort in its truest sense. It was a non-ideological effort in the truest sense. This was an effort to alert American people to the dangers some Americans have feared, for not 1 month, 2 months, or 6 months, but in many cases for 2 years, 5 years, and 6 years.

I have received hundreds of letters from wives, mothers, and children of these gallant Americans praising the efforts on May 1, praising Members of Congress who were there, and praising those who participated in other ways for taking the time to indicate concern for their fathers, husbands, and sons.

I might note that a resolution was passed by Congress designating May 3 as a national day of prayer for these men. We chose to declare our support for these missing and captive Americans within the context of Law Day because May 1 is Law Day. We felt Law Day was particularly appropriate, because one of the provisions of the Law Day resolution passed by Congress some years ago dealt with the ideals of international justice. We felt in some small way on that evening the American people would know, and primarily the wives, mothers, and children would know, that this Congress and Members of this body and other Americans from every walk of life had not forgotten those 1,529 Americans.

Mr. President, North Vietnam is a signatory to the Geneva Accords. These conventions are the definitive statements in international law concerning treatment of prisoners of war, and both North Vietnam and the NLF have persistently and callously violated them, notwithstanding ratification by North Vietnam on June 28, 1957. Despite ratification and the clear language of the conventions, Hanoi and the Vietcong have committed the following calculated violations: First, they have refused to identify all American prisoners of war.

Second, they have denied to American prisoners of war the right to communicate regularly by mail with their families. Third, they have refused to provide proper nourishment and humane treatment for all American prisoners of war, information on their detention camps, and access by neutral observers; and, fourth, they have continued to detain, rather than repatriate, the seriously ill and the seriously wounded.

Mr. President, I believe in the amendment offered—and I trust that it will be accepted, if not then adopted by an overwhelming vote. It simply states that if the President determines that American nationals or American citizens are being held in the country of Cambodia as prisoners of war, then the provisions of

subsection (a) are inoperative. It is necessary that they be inoperative because, as I interpret the Church-Cooper amendment, and as it has been interpreted by the principal sponsor of the amendment, the Senator from Kentucky, in response to the Senator from Texas, the amendment would create the impression that the President would be denied the right to cross the international border of Cambodia to rescue Americans who might be prisoners of war of the North Vietnamese or the forces of the National Liberation Front, without first consulting Congress.

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

Mr. DOLE. I yield to the Senator from Colorado.

Mr. DOMINICK. I appreciate very much the Senator's yielding. Having served with him since we both came to Congress in the 87th Congress, and having joined him in the May 1 rally on behalf of the prisoners of war, and having had many meetings in my own State with members of the families of prisoners of war, I was pleased that he would let me be a cosponsor of this amendment.

It strikes me that we ought to make this clear, as I understand the meaning of the amendment of the Senator from Kansas: We are not talking about any major type of reinvasion of Cambodia or of the North Vietnamese-occupied areas of Cambodia. What the Senator is talking about is the ability to move quickly and perhaps rescue some of our men if the situation develops that way.

I remember so well talking with members of families of men missing in action, or men who are thought to be prisoners of war, who were captured within South Vietnam—not North Vietnam, but South Vietnam. We do not have the faintest idea where they have those prisoners of war. We do not know what has happened to those men. It is entirely possible that they could be held in some of the sanctuary areas of Cambodia occupied by the North Vietnamese.

It would seem to me that we would be wrong if we went ahead and said we could not do anything in this field even though we knew that, a quarter of a mile away, some Americans, whether they be AID personnel or American military personnel, were held prisoners under that type of condition.

I am happy that the Senator from Kansas has taken this step. I am happy to cosponsor the amendment. I would sincerely hope that we could make progress in alerting some of the North Vietnamese and the Vietcong that this is what we are talking about; that the United States means business about getting some decent treatment, fair treatment, and humane treatment, for the people of the United States in respect to its prisoners of war.

The efforts of the Senator from Kansas in this field are outstanding. I heartily endorse the amendment.

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

Mr. DOLE. Let me respond first to the Senator from Colorado, who was a moving force in reference to American prisoners of war and those missing in action long before I came to this body.

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I have analyzed the Cooper-Church amendment, and I have attempted to do so very objectively in hopes some compromise might be reached; but this analysis only points up the folly of trying to tie the President's hands and saying, in effect, to prisoners, whether they be newsmen or American soldiers, if they are held captive by the enemy in Cambodia, that we turn our backs on them.

That, in effect, is what the Church-Cooper amendment would require, because after July 1, the effective date of the amendment, if it is passed, the President will have no such power without first consulting with Congress.

I daresay that if President Nixon were faced with the question of coming to Congress or saving American lives, he would save the American lives and be prepared to suffer the consequences, whatever they might be for so acting. I have great faith in President Nixon. I have great faith in his integrity, and in his efforts to extricate us from Vietnam. But my amendment points up a substantial and very basic weakness in any effort to hamstring the President of the United States. Does or does he not have the right, unhampered, to protect American Forces? Does or does he not have the right, unhampered, to move to protect American prisoners? If there is any doubt, if there is one prisoner in Cambodia, I could not vote for the Cooper-Church amendment which would take away that power, or at least cloud the power the President may have to act quickly.

That view is shared by the Senator from Colorado, because his concern for the protection of American forces.

This may be the first of a series of amendments to emphasize that, notwithstanding the intentions, notwithstanding the improvement in the preamble, additional changes should be made in the substantive language to make it crystal clear—yes, to all Americans, but more importantly to the enemy—that we have not tied the hands of our President, that we are not saying goodbye to American prisoners of war, wherever they may be. We should not pass a resolution which says the President cannot act unless he consults with Congress or has the consent of Congress.

I do not believe that is the intention of those who sponsor the Church-Cooper amendment.

I would hope language can be agreed upon to make clear that that is not the intent of the Cooper-Church amendment.

Mr. DOMINICK. Mr. President, will the Senator yield further?

Mr. DOLE. I yield to the Senator from Colorado.

Mr. DOMINICK. It should be made clear that we have had some men downed, who have been captured in Laos. We do not know where they are. We have no vague recognition of whether or not there are even prison camps up there. But if we come to a congressional resolution which says American forces are never going to be put in the North Vietnamese-occupied areas of Cambodia, it would seem to me it would be reasonable for the other side to say, "These are

natural places where we will hold them. We will use them as some kind of bounty so we can reach something that is favorable to us in other areas. We will not make any deals at all until we get some agreement that is acceptable to us."

Withholding the right of rescue operations in these types of circumstances, it seems to me, would be wrong.

For that reason I strongly endorse the amendment.

Mr. DOLE. I thank the Senator from Colorado.

I yield now to the Senator from Florida.

Mr. GURNEY. I thank the Senator for yielding to me.

Mr. President, I, too, want to express my hearty assent and also my commendation of the Senator from Kansas for the fine leadership he has shown in this prisoner of war matter. In fact, he has gained nationwide recognition, as he should, for taking the leadership and exposing the inhumane actions of the North Vietnamese so far as our American prisoners of war are concerned.

I also want to say, in support of his amendment, that those of us who have opposed the Church-Cooper amendment and support the President in his actions in Cambodia have, again and again warned that the President's action in Cambodia has essentially been a tactical move. It has not been a broadening of the war. Our opposition to the amendment stems chiefly from the fact that we think the President's hands are going to be tied by the Church-Cooper amendment, particularly as far as future actions and operations in South Vietnam are concerned, and I think the significance of the amendment offered by the Senator from Kansas is that it points out that in this one area is a situation that we have seen will exist if we pass the Church-Cooper amendment, and it will tie the President's hands and limit his actions so far as prisoners of war are concerned, certainly, in Cambodia.

So I think the Senator's amendment is well advised. I certainly hope it will pass, and I would ask him if I may join him in his amendment as a cosponsor.

Mr. DOLE. Yes. I yield first to the Senator from Vermont, and then I shall yield to the Senator from Florida.

Mr. AIKEN. Mr. President, I would like to get this clear in my mind: As I understand, the amendment of the Senator from Kansas would authorize President Nixon to send troops into Cambodia for the purpose of rescuing prisoners of war?

Mr. DOLE. Yes.

Mr. AIKEN. And also into Laos?

Mr. DOLE. I would hope he would have that right, to rescue prisoners. But I might say my amendment is limited to Cambodia only, because the Church-Cooper resolution addresses itself to Cambodia.

Mr. AIKEN. I am just asking what the Senator's objective is. Would the Senator from Kansas expect the President to send troops into North Vietnam, where most of the prisoners of war are held?

Mr. DOLE. Well, I would not reject that idea.

Mr. AIKEN. Well, the Senator would recommend it, would he not?

Mr. DOLE. I doubt whether my recommendation would mean much. I think he has that authority now.

Mr. AIKEN. Suppose prisoners of war were moved out of North Vietnam into China. Would the Senator authorize sending troops into China to rescue prisoners of war? It seems to me a prisoner of war is just as unhappy as he can be, regardless of where he is located; and if the President has authority to rescue a prisoner of war one place, he certainly should have the authority to rescue prisoners of war wherever they might be.

Mr. DOLE. I think he should have that authority. I want to make it clear that I do not recommend that he do any of these things, but I think he should not be restricted from doing them. The enemy should not know in advance that he might not do it, or cannot do it.

Mr. AIKEN. We have some prisoners of war, I believe, in Cambodia already. I heard we had some newspaper people who had been taken prisoner.

Mr. DOLE. I think we have at least two, maybe more.

Mr. AIKEN. I was just wondering how far the Senator's objective went.

It seems to me if you can send troops into one country to rescue prisoners of war, you ought to be able to send them into any country where prisoners of war were kept.

I sympathize very much with the Senator's purpose, because we have people in my State who do not know whether their boys are prisoners of war, or whether they were killed, or what happened, and you cannot get any information from the enemy. I paid my respects to them in the CONGRESSIONAL RECORD last Friday.

Mr. DOLE. That is correct. I read the Senator's statement.

Mr. AIKEN. The Senator has a worthy purpose, but the question is, where would it stop?

Mr. DOLE. Let me say, before I yield to the Senator from Florida, that I have tried to limit the amendment to the country of Cambodia, because that is the resolution offered by the distinguished Senators from Idaho, Vermont, Kentucky, and Montana.

Mr. AIKEN. Yes. But I point out, it would be unfair to the prisoners to say, "You cannot hold our prisoners in Cambodia, you have got to get them up the line in Laos somewhere, or in North Vietnam." A prisoner of war is unhappy wherever he is, and just as deserving of rescue from one place as from another.

Mr. DOLE. I share the view of the Senator from Vermont, and, if necessary, could broaden the scope of the amendment; but I believe it is drawn in accordance with the scope of the Church-Cooper resolution. It is restricted to one country, the country of Cambodia, because that is the country covered by the Church-Cooper resolution.

Mr. AIKEN. Yes.

Mr. DOLE. I would hope that the President has that right, and would have that right in any event; but to make it certain, because questions have been raised, I offered the amendment.

Mr. AIKEN. I believe the President is on reasonably sound ground when he claims constitutional authority, or at least on much sounder grounds than President Johnson was when he based his actions for expanding the war on legislative authority, which I do not think was very sound, because he certainly did not interpret the legislation the way most Members of Congress did.

But President Nixon, as I have held from the beginning, was on much sounder ground in basing his acts on constitutional authority rather than legislative authority. I do not know, for sure, but I doubt if this amendment would add anything to his constitutional authority.

Mr. DOLE. Mr. President, I share, for the most part, and associate myself with the words of the Senator from Florida. I was privileged to be in the Chamber yesterday when he discussed in great depth the powers of the President vis-à-vis the powers of Congress and his interpretation of those powers. Perhaps, as he has indicated, many of us who supported the change in the preamble—and my judgment is not equal to that of the senior Senator from Florida—look upon the change as an improvement.

Now that we have adopted the preamble, which is the "eyewash" portion of the amendment, we are now dealing with its substantive provisions. The issue is, as the Senator from Florida has just stated very well, whether we will shackle the Commander in Chief, whoever he may be, President Nixon, or his successor, and how far Congress should go in exercising our authority.

Yes, we have the power under the Constitution to declare war. We have that power. Yes, we have the right under the Constitution to appropriate money. There is no doubt about that. We have grave responsibilities when it comes to declaring war and appropriating funds for any conflict or any declared war. On the other hand, the President, as the Senator from Florida stated, is the Commander in Chief. He does have the right and he does have the power to make tactical decisions, whether in Cambodia or some other country around the world.

I have said from time to time that there are those who fault President Nixon for not heating up the conflict in the Middle East, for not authorizing sales of jets to Israel—which I support. Yet those same critics criticize the President for not extricating us from Southeast Asia.

I happen to believe on both counts that the President is pursuing the proper course, one of caution but primarily one that is concerned with the best interests of America. He is making every effort to extricate us from South Vietnam. He is making every effort to prevent this country's getting involved in a larger conflict in the Middle East, at the same time recognizing the responsibilities we have in that part of the world.

I would hope that we would be consistent in our views, in our policies, and in our statements. It seems that that one right and one power that the President must have, in any event, is to protect American forces. I could subscribe, to the provisions of the Church-Cooper resolution if that were clearly spelled out. It has been said in this Chamber by

the distinguished Senator from Kentucky, the distinguished Senator from Idaho, and the distinguished majority leader, that certainly the President has the right to protect American forces. But I might suggest that there would be some, yes, in this Chamber who, if the President—on July 4, for example, 4 days after the effective date of this resolution if adopted—were to find it necessary to go back into Cambodia to protect the American forces, on the following day would rise in this Chamber and charge that the President had violated the Church-Cooper resolution, that he had exceeded his authority under the Church-Cooper resolution.

We can be practical. We are practical. We understand how the people will interpret the Cooper-Church resolution. If it were passed in its present form and if the President were to find it necessary to take action, whatever action it might be, to protect American forces he may as well brace himself for an onslaught in this Chamber.

The President understands that. He is aware of his authority and responsibility as Commander in Chief. The President must act under the Constitution to protect American lives.

Mr. President, does it do any great harm to the Cooper-Church resolution to write in as a specific part of that resolution that, notwithstanding anything therein contained, the President's right to protect the American forces shall not be impaired.

If that were done, of course, the extreme argument might be made that he could go into China, into Russia, or into Egypt, but let us be realistic. The President understands the role of Congress, he understands the role of the Senate.

Let me conclude by stating again the amendment, which says:

The provisions of subsection (a) of this section shall be inoperative during any period that the President determines that citizens or nationals of the United States are held as prisoners of war in Cambodia by the North Vietnamese or the forces of the National Liberation Front.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement made by the President on December 12, 1969, concerning the American prisoners of war, a statement made on May 19, 1969, by Secretary of Defense Laird with reference to prisoners of war, a statement made at a news conference on June 5, 1969, by Secretary of State Rogers concerning American prisoners of war, a statement made on May 22, 1969, by the former Ambassador and Chief Negotiator at Paris, Henry Cabot Lodge, a statement of December 30, 1969, by Ambassador Habib on prisoners of war, and a State Department bulletin entitled, "American Prisoners of War in Vietnam: An Appeal to the U.N."

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

THE WHITE HOUSE,
December 12, 1969.

REMARKS OF THE PRESIDENT FOLLOWING A MEETING WITH WIVES AND MOTHERS OF PRISONERS OF WAR AND OF SERVICEMEN MISSING IN ACTION, THE ROOSEVELT ROOM
Ladies and gentlemen: I have the very great honor to present in this room today

five of the most courageous women I have had the privilege to meet in my life.

Mrs. Nixon and I have met with 26 women, of which these are a part, representing approximately 1,500 women, mothers and wives of American servicemen who are missing in Vietnam and who are or may be prisoners of war. Some of these men have been prisoners or missing for as long as five years, most of them two to three years.

Insofar as the treatment of prisoners is concerned, it would probably not be inaccurate to say that the record in this war is one of the most unconscionable in the history of warfare. And there have been, of course, some very bad examples in past wars, as we know.

What I have assured these very courageous women is that, first, in reaching a settlement of the war that an integral part of any settlement that is agreed to must be a settlement that is satisfactory on the prisoner issue and, second, that clearly apart from reaching an overall settlement of the war that this Government will do everything that it possibly can to separate out the prisoner issue and have it handled as it should be, as a separate issue on a humane basis.

Finally, I would simply add that while we all know that there is disagreement in this country about the war in Vietnam and while there is dissent about it on several points, that on this issue, the treatment of prisoners of war, that there can be and there should be no disagreement.

The American people, I am sure, are unanimous in expressing their sympathy to these women, to their children, and also in supporting their Government's attempt to get the Government of North Vietnam and the VC to respond to the many initiatives which we have undertaken to get this issue separated out and prior to the time we can do something to end the war.

I understand they will be here to answer questions.

STATEMENT BY SECRETARY OF DEFENSE
MELVIN R. LAIRD

On numerous occasions I have expressed my deep concern for the welfare of our American servicemen who are prisoners of war or missing in action. In this regard, I have directed Assistant Secretary of Defense (ISA) G. Warren Nutter, who has been named Chairman of the Department of Defense Prisoner of War Policy Committee, to insure that the families of these servicemen are receiving all assistance to which they are entitled.

The North Vietnamese have claimed that they are treating our men humanely. I am distressed by the fact that there is clear evidence that this is not the case.

The United States Government has urged that the enemy respect the requirements of the Geneva Convention. This they have refused to do.

The North Vietnamese and the Viet Cong have never identified the names of all the U.S. prisoners whom they hold. For the most part, information on some of these Americans has come in the form of scattered, and often distorted, propaganda films and photographs which the North Vietnamese have chosen to sell or release.

We know that at least several U.S. prisoners were injured at the time of their capture and we are concerned about the medical care they are receiving.

The Geneva Convention requires a free exchange of mail between the prisoners and their families and yet very little mail has been received from only a few prisoners in the past five years.

As of next month, more than 200 American servicemen will have been listed either as prisoners of war or as missing in action for more than three and one-half years. This period of time is longer than any U.S. serviceman was held prisoner during World War II.

The Department of Defense continues to

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hope for meaningful progress on the matter of prisoner release in the Paris discussions. In the meantime, we appeal to North Vietnam and the Viet Cong to respect the humane rights of those whom they hold prisoners of war.

Specifically, we call for adherence to the Geneva Convention which requires:

1. Release of names of prisoners held.
2. Immediate release of sick and wounded prisoners.
3. Impartial inspections of prisoner of war facilities.
4. Proper treatment of all prisoners.
5. Regular flow of mail.

Most importantly, we seek the prompt release of all American prisoners.

SECRETARY ROGERS' NEWS CONFERENCE OF
JUNE 5, 1969

(The following is the State Department's release of Secretary of State William P. Rogers' news conference, which is authorized for direct quotation.)

Secretary ROGERS. Ladies and gentlemen, I am glad to see the room is not as crowded as it was the last time. I have a short statement here I would like to read:

I want to express my serious concern about the Americans who are prisoners of war in Southeast Asia. Many of these prisoners have been held for three years or more. There is a long tradition among nations that personnel captured in wartime be treated humanely. This principle has been expressed in the Geneva Convention of 1949 and is recognized by more than 120 nations.

A basic requirement of the Convention is that names of prisoners be provided to their families and to an appropriate agency in a neutral country. Communist leaders have failed to observe this simple civilized requirement which would mean so much to the wives and families of the men who are missing in combat.

North Vietnamese officials have frequently declared that the prisoners are treated humanely. Many seriously question these statements. Assurance could readily be provided if North Viet-Nam would permit visits by impartial observers to the prison camps. For the sake of the prisoners and for their families, we continue to hope for a positive response from North Viet-Nam. We are prepared to discuss this subject and to move quickly toward arrangements for the release of prisoners on both sides, and I believe that any sign of good faith by the other side in this matter would provide encouragement for our negotiations in Paris.

Thank you. I will take some questions.

AMBASSADOR LODGE'S STATEMENTS ON PW'S
DURING MAY 22 PARIS TALKS

Opening statement: I cannot leave this subject (PW's) without protesting the attitude which you have expressed most recently last Tuesday, May 20, with respect to the prisoners held in North Vietnam. You have refused to provide a list of these prisoners so that their families might know whether they are living or dead. You have refused to discuss the repatriation of the sick and wounded which is a long-established international practice. You should know that the attitude you have expressed with regard to these basic humanitarian requirements cannot have a favorable effect on our negotiations here.

Additional remarks: Let me add one observation about prisoners. It is difficult to understand how you can claim to be treating our prisoners humanely when you refuse to identify the prisoners you hold so that their families can know the fate of their relatives. You refuse to permit regular mail exchanges. You reject impartial international observation of conditions under which prisoners are held; You refuse to discuss release of sick and wounded prisoners. Yet

these are basic elements of humanitarian treatment under established international standards. We do not see how you can be hurt by merely publishing the names of those who are alive so that the uncertainty which their families feel may be ended. To express myself for a moment in human terms instead of the language of diplomacy, what is involved here is the prisoner's wife who does not know whether her husband is alive or whether he is dead. It is really hard to believe that the security of North Vietnam would be threatened if this wife were told the truth about her husband's fate. We hope you will reconsider your attitude on these questions so that it will truly reflect the humane policy which you claim to follow.

AMBASSADOR HABIB'S OPENING STATEMENT

(Following is the text of the opening statement delivered by Ambassador Philip C. Habib at the 48th Plenary Session of the New Paris Meetings on Viet-Nam, December 30, 1969.)

Ladies and Gentlemen: The issue which I wish to address today is the question of prisoners of war. In the midst of this traditional holiday season, a season for family reunions and celebrations, thousands of families are troubled over the fate of a relative missing or captured in Viet-Nam. This is a tragic situation, not just because family members are missing at this holiday period, but also because the families' uncertainty and anguish is so unnecessary and uncalled for.

I do not express only my government's view on this unfortunate matter, nor only the view of the American people. I express a view that is almost universally shared. It has been expressed in representative bodies throughout the world—in the United States Congress, in the United Nations, at the International Red Cross Conference in Istanbul last September, by many National Red Cross societies and by many governments. In fact, on this issue, North Viet-Nam is virtually isolated in the eyes of world public opinion.

Ladies and gentlemen, there are two questions before us, first, the critical question of humanitarian treatment for the prisoners of war side holds. Secondly, the repatriation of all prisoners.

On the first question, your side's position does not conform to normal standards. On the second question, your position is unreasonable.

Some Americans have been held by your side since early in 1964. Others have been missing since that time. And yet you still refuse to inform all families of the fate of these men.

On December 22, a spokesman for your side is reported to have said, "We refuse to give the list of names to the Nixon Administration, but the prisoners' families will know their names by and by." A gradual, piecemeal process of providing a few names at a time to anxious families is no substitute for making known without delay the names of all prisoners of war.

Because of your side's continuing refusal to identify all prisoners of war, my government is today releasing to the press the names of U.S. military personnel who are missing in Southeast Asia and may possibly be your prisoners. I will give your side a copy of the list here as well. My government is taking this action in the hope that your side, even at this late date, will indicate which men are prisoners and those whom you know to be dead, as a matter of humanitarian concern for their families.

Your side claims that you provide humane treatment to the prisoners you hold. But you permit no independent and objective authority to verify this claim. Indeed, much of the evidence available to the outside world regarding the treatment of prisoners held by

your side contradicts your claims. The prisoners have not been permitted to correspond regularly with their families, and to receive mail and packages on a regular basis. There is no assurance that the prisoners actually receive the mail sent them. Little mail is received by families from the prisoners.

Regarding the issue of mail, two American women who recently traveled to North Viet-Nam reported that families of prisoners could send a letter a month and a package of less than six pounds every other month to the POWs by addressing them with the prisoner's name and serial number, care of "Camp of Detention for U.S. Pilots Captured in the Democratic Republic of Viet-Nam, Hanoi, DRVN" and writing "Via Mosco" on the envelope. We would like your confirmation of the accuracy of this report. We would also like to know whether this means that the American prisoners will be permitted to write to their families on a regular basis.

As for the physical treatment of prisoners, there is evidence that prisoners held by your side have been subjected to solitary confinement, as well as to other forms of physical and mental duress. Your side has made no systematic effort to repatriate sick and wounded prisoners.

As President Nixon has said, this is an unconscionable position. There is no way it can be justified to the families of the prisoners or to the world at large.

This is not simply a narrow question of legal obligations. This is a question of humane treatment which civilized nations accord to those who are helpless, who pose no threat and who no longer have the means to defend themselves. It is also a question of decency toward the families of those who are missing.

On our side, the United States Government and the Government of the Republic of Viet-Nam have undertaken to respect the Geneva Convention in their treatment of prisoners of war and have arranged for the ICRC to visit prisoner of war camps in South Viet-Nam. The camps are regularly visited by ICRC delegates and doctors, who are able to meet individual prisoners privately. The names of the prisoners of war have been made available to the ICRC. Prisoners of war are able to send and receive mail and packages. The Government of the Republic of Viet-Nam in the past released sick and wounded POWs. Regular international inspection has shown that the prisoners of war held by the Government of the Republic of Viet-Nam are treated in accordance with the requirements of the Geneva Convention.

Let me turn to the question of the release and repatriation of prisoners of war. Your side says that the prisoner question cannot be settled except as part of an overall settlement of the war in Viet-Nam. For our part, see no reason why there cannot be a negotiated release of prisoners of war on both sides prior to an overall settlement. You still refuse to discuss the release of the prisoners you hold. Although you have released a few prisoners on occasion, you refuse to negotiate a repatriation of all prisoners.

Instead of treating the prisoner question as a humanitarian issue, your side apparently wishes to use the prisoners as pawns in bargaining for an overall settlement of the war. But you refuse to negotiate seriously in Paris, thereby delaying an overall settlement of the war. Thus, you keep hundreds of families in agonizing doubt about the lives and welfare of their sons or husbands or parents while you seek to settle the war on your own terms.

If your side hopes to apply political pressure upon the United States through its harsh attitude regarding prisoners of war, you reveal a thorough misunderstanding of American public opinion. No American can condone your side's handling of the prisoner question. Your denial of the most fundamental precepts governing such matters has only

resulted in unanimous public condemnation.

Ladies and gentlemen, I call on your side to live up to the international standards for the treatment of those who are missing or held prisoner in Viet-Nam. This humanitarian issue should be dealt with separately from the political and military questions we face in the Paris meetings. We propose that our two sides enter promptly into discussions on all questions affecting prisoners of war held on both sides, including the question of their early release. The United States Delegation stands ready to enter into such negotiations without delay.

**AMERICAN PRISONERS OF WAR IN VIETNAM:
AN APPEAL TO THE U.N.**

This pamphlet consists of a statement made by Rita F. Hauser, U.S. Alternate Representative to the General Assembly, in Committee III (Social, Humanitarian, and Cultural) of the U.N. General Assembly on November 11, 1969.

(The text of the statement has been reprinted from the Department of State Bulletin of December 11, 1967. The Bulletin, the official record of U.S. foreign policy, is published weekly and is available for subscription from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at \$16.00 a year.)

We now commence general debate in this committee on three subjects of moment: elimination of all forms of racial discrimination, measures to be taken against nazism and racial intolerance, and violation of human rights and fundamental freedoms. Of the three, the violation of human rights and fundamental freedoms appears to my delegation to be singularly important. Indeed, its importance to all delegations is demonstrated by its recurrence each year as a major subject of discussion.

This agenda item makes particular reference to colonial and other dependent countries and territories. My delegation continues to deplore the inhumane practice of *apartheid* in South Africa and in Namibia and associates itself with the efforts of the international community seeking peaceful and practicable means for its elimination as soon as possible. We also remain very concerned about the serious violations of human rights in other parts of Africa. These questions are rightfully treated in many bodies of the United Nations, including the Security Council, for they are of the utmost urgency and gravity.

Accordingly, Madam Chairman, while we recognize fully the persistent and serious human rights violations in southern Africa, we are of the view that the Third Committee should not utilize all of its time on this aspect of the subject, so widely treated elsewhere in the United Nations, lest by so doing we neglect the many instances of grave violations of human rights elsewhere in the world. I wish to recall that our agenda item itself refers to "the violation of human rights and fundamental freedoms . . . in all countries."

On reading the hundreds of petitions alleging violations of human rights which come to the Commission on Human Rights from sources in many countries, my delegation has noted the large number referring to violations of articles 9-12 and article 19 of the Universal Declaration of Human Rights. The latter provides that "Everyone has the right to freedom of opinion and expression," including freedom to "seek, receive and impart information and ideas through any media and regardless of frontiers." Article 9 states that "No one shall be subjected to arbitrary arrest, detention or exile." Articles 10, 11, and 12 afford full protection and due process of law as to those charged with a penal offense.

In reviewing the 1969 annual report of that singular institution, Amnesty International, now consisting of 20 national sections and over 15,000 individual members, the work of which is to strengthen all international movements supporting human rights, my delegation was very much struck by the fact that Amnesty International has taken up investigation of cases of political prisoners during the year 1968-69 in 72 countries. Included was my own country, where the status of conscientious objectors who have been imprisoned for violations of the conscription laws has been looked into with the full cooperation of my Government.

Newspaper reports and other media sources make perfectly clear to us that the right of political dissent is still a very precarious one for millions of people. Prisons bulge with those who have dared to criticize or oppose peacefully the policies of their governments; and, alas, many such prisoners are brutally ill-treated, in violation of all standards of human decency. We note particularly the evidence compiled in the report of the *ad hoc* working group of experts as to African territories under colonial domination, which documents the degree to which political prisoners have been brutalized in these areas.

Rather than promote and encourage open dissent, many governments have maintained power with a reign of fear which serves to terrorize the minds and, eventually, the bodies of those who disagree.

In the time available to me, Madam Chairman, I cannot review all of these situations occurring the world over. But in the course of this debate, my delegation wishes strongly to affirm the inherent faculty of all men— if they are indeed, as article 1 of the Universal Declaration of Human Rights states, "born free and equal in dignity and rights . . . endowed with reason and conscience"—to exercise their basic right of freedom of spirit, mind, and belief, wherever they may be located and whatever may be the political and social system under which they live.

These rights are no greater or smaller in Africa than in the Americas, in Asia than in Europe. They belong to all mankind and derive from man's basic humanity. The right to disagree, to dissent, is perhaps the most cherished of all the political rights of man. History teaches that yesterday's dissenters often become today's majority, for through reasoned dissent, man progresses. If I may so note, my delegation was proud to witness the free exercise of free minds across our country on October 15, a day on which many Americans were able to express their dissent with the Government's policy as others were equally able to disagree publicly with the dissenters. We are grateful for orderly and reasonable disagreement; for we know that no country's policies are so sound or so correct that none will be found who disagree.

GENEVA CONVENTION ON PRISONERS OF WAR

Madam Chairman, my delegation is also deeply disturbed at a most fundamental violation of human decency as to another category of prisoners: those who are prisoners of war protected by international law.

I would like to discuss a specific situation involving prisoners which, I am sure you will understand, is of particular concern to my country. United States forces are engaged in combat in Vietnam. It is our earnest hope that this conflict will soon be terminated and the task of rebuilding begun. But many hundreds of American soldiers, airmen, marines, and naval personnel are at present missing or captured in Vietnam. How many of these men, and which ones, are in captivity is a secret closely guarded by the North Vietnamese authorities. For each of these men there is a wife, a child, a parent, who is concerned with his fate. They are subjected to uncertainty and despair which grow as each day passes.

Our concern in this matter, expressed here before the assemblage of nations, is humanitarian, not political. This concern was succinctly but urgently expressed in the agonizing question put by the many wives who have gone to Paris to ask the North Vietnamese delegation to the Paris talks: Please tell me if I am a wife or a widow.

There exists an international convention, legally binding upon all parties concerned: the Convention on Protection of Prisoners of War, concluded at Geneva in 1949.¹ This convention applies to "all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them." It thus binds the United States, which ratified it in 1955, the Republic of Viet-Nam, which acceded to it in 1953, and North Viet-Nam, which acceded in 1957.

This convention, to which, I may add, there are 125 parties, including more than 100 members of the United Nations, contains provisions which, if implemented, would let children know if their fathers are alive, parents if their sons are well treated. It requires that, and I quote: "Immediately upon capture, or not more than one week after arrival at a camp, even if it is a transit camp, likewise in case of sickness or transfer to hospital or to another camp, every prisoner of war shall be enabled to write direct to his family . . ."

The convention assures a prisoner the right to remain in communication with his loved ones and with an international or state organization which has assumed the obligation of safeguarding the rights of the prisoner.

In addition to the right to receive mail and packages, and to send a minimum of two letters and four cards each month, the Geneva convention specifies minimum humane standards of detention, of hygiene, diet, recreation, and employment. It requires that seriously wounded or ill prisoners be repatriated as soon as they are able to travel. It specifies that the detaining power shall 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. It requires that the detaining power provide the names of the prisoners it holds to their families, as well as to the protecting power, or to the International Committee of the Red Cross, to pass on to their country of origin. It requires that the detaining party permit on-the-scene inspection of its detention facilities.

Madam Chairman, my fellow delegates, this convention is not meant to create a life of privilege for captured military personnel. It is meant to ensure minimum standards of human decency to helpless men who are in the power of their military enemy and can no longer pose a threat to that enemy and to provide minimum solace to families who are far from the front lines. In wartime, when passions are inflamed, this convention seeks to preserve those frail links of compassion and decency which are so urgently needed. Nurtured, these links may in turn help move enemies toward a realization of their common stake in finding the path to peace.

My country places the highest priority upon implementation of this convention. There are now some 30,000 North Vietnamese and Viet Cong prisoners of war in South Viet-Nam who have been accorded the status and the rights of prisoners of war under the Geneva convention, even though many of them may not technically be entitled to such prisoner-of-war status as defined in the convention.

¹Treaties and Other International Acts Series 3364.

- May 27, 1970

CONGRESSIONAL RECORD — SENATE

The United States has tried again and again to persuade Hanoi to apply the basic minimum standards guaranteed by the convention: identification of prisoners, the right to send and receive mail, and a protecting power to inspect detention conditions. We remain immensely grateful to the governments which have cooperated in these regrettably unsuccessful efforts.

In contrast, the Government of the Republic of Viet-Nam, with the cooperation of its allies, opened all detention camps to inspection by the International Committee of the Red Cross. The names of POW's have been made available to the ICRC. Prisoners of war detained by the Republic of Viet-Nam have the right to send and receive mail and packages. They are interned in six camps which are administered by the Republic of Viet-Nam and which, as regular international inspection has shown, conform to the requirements of the Geneva convention.

Let me be clear that we are not claiming a perfect record on this subject. War is ugly and brutal by nature, and violations by individuals have occurred. The point is, however, that the Allied command has made every effort to ensure that the convention is applied. This includes the issuance of clear and explicit orders and, even more important, thorough investigation of alleged violations and punishment of those found guilty. This policy is confirmed and supported by the continuous review, both official and unofficial, which results from free access to POW's by delegates and doctors of the ICRC.

The United States neither seeks nor deserves praise for its efforts to implement the convention. This is our duty—our legal duty and our moral duty. The tragic fact, however, is that North Viet-Nam and the National Liberation Front refuse to acknowledge their legal and moral duty to apply similar standards of treatment to the helpless prisoners in their power, Vietnamese as well as American.

NORTH VIETNAM'S TREATMENT OF PRISONERS

The record is indeed sad. The North Vietnamese authorities have refused to identify the prisoners they hold. Only a limited minority of those men known by the United States Government to have been captured have been allowed to communicate with the outside world. Mail even from this small minority has been infrequent and irregular. The sick and the wounded have not been repatriated, nor have they been identified. Even the minimum protection that would be afforded by inspection of POW facilities by an impartial international body has been denied. The ICRC's repeated requests to be allowed to visit the prisoners at their places of detention have been repeatedly denied, nor has any other accepted intermediary been given access to the prisoners.

From the reports of the few men actually released by North Viet-Nam and from other sources has come disturbing evidence that prisoners are being deprived of adequate medical care and diets and that, in many instances, they have been subjected to physical and mental torture. For example, Lieutenant Robert Frishman, one of the recently released American prisoners, in a public statement on September 2, 1969, shortly after his release, said American prisoners are subject to "solitary confinement, forced statements, living in a cage for 3 years, being put in straps, not being allowed to sleep or eat, removal of fingernails, being hung from a ceiling, having an infected arm which was almost lost, not receiving medical care, being dragged along the ground with a broken leg. . . ." Recounting the treatment of Lieutenant Commander Stratton, Lieutenant Frishman said:

"The North Vietnamese tried to get Lieutenant Commander Stratton to appear before a press delegation and say that he had received humane and lenient treatment. He refused because his treatment hadn't been humane. He'd been tied up with ropes to

such a degree that he still has large scars on his arms from rope burns which became infected. He was deprived of sleep, beaten, had his fingernails removed, and was put in solitary, but the North Vietnamese insisted that he make the false 'humane treatment statements' and threw him into a dark cell alone for 38 days to think about it."

This record is indeed chilling. It has been noted and deplored by a great many international observers. For example, Jacques Freymond of the International Committee of the Red Cross, reporting on the work of the Committee on Prisoners of War, highlighted the contrasts between North and South Viet-Nam as follows:

"In Viet-Nam, it (the ICRC) has so far had limited success. In fact, in spite of repeated representations, it has not been able to obtain the agreement of the Democratic Republic of Viet-Nam to the installation of a delegation in Hanoi nor even to the visiting of prisoners of war. . . .

"On the other hand, the ICRC is represented in Saigon and the delegates are able to visit all prisoner of war camps. They also regularly receive nominal rolls of these prisoners."

In the face of such international criticism there have been few breaks in the silence of Hanoi. We have, however, been told—though in the shrill phrases of propaganda, rather than in the measured tones of statesmanship or humanitarianism—that the Geneva convention does not apply because there has not been a formal declaration of war and that the American prisoners are "war criminals" and therefore not entitled to the rights conferred upon prisoners of war by the Geneva convention. Despite this, Hanoi says, it treats the prisoners "humanely."

Madam Chairman, my Government cannot accept these assertions. The Geneva convention provides a detailed international standard of humane treatment against which the treatment of prisoners of war can be measured. Hanoi's mere assertion of "humane" treatment, which has never been verified by impartial inspection, is no substitute. Further, North Viet-Nam's denial that the convention is applicable and its assertion that it therefore cannot be the standard to measure its conduct have no basis in international law. Hanoi says that the convention applies only where there has been a declaration of war. But it is clear from the language of the convention, which I quoted earlier, that the absence of such a declaration has no relationship to the convention's applicability and does not justify a refusal to apply it.

Hanoi has also asserted that our men held as prisoners are war criminals, apparently on the theory that any attacks against North Viet-Nam or Viet Cong forces or facilities are criminal acts and that all military personnel involved in such attacks are criminals. Such assertions are patently absurd. Our men are not war criminals. Moreover, the Geneva conventions and modern international humanitarian law reject any suggestion that the protection of individual war victims, whether soldiers or civilians, is dependent upon moral or legal judgments about the cause for which their government is fighting. The law is there to protect all the victims of war on both sides. All countries have an interest in seeing that it is respected.

The United States understands that every country believes that it is right and its enemy wrong. But, Madam Chairman, the Geneva convention was designed specifically to meet this problem. It imposes upon all combatant powers the obligation to treat military personnel made helpless by their captivity in accordance with a single objective and verifiable standard.

ICRC RESOLUTION

The 21st International Conference of the Red Cross, held at Istanbul in September, cut through any possible quibbles that could

be made by a party to the Viet-Nam conflict. It adopted without dissent a resolution which obtained the support of 114 governments and national Red Cross organizations.² That resolution called upon all parties:

" . . . to abide by the obligations set forth in the Convention and upon all authorities involved in an armed conflict to ensure that all uniformed members of the regular armed forces of another party to the conflict and all other persons entitled to prisoner of war status are treated humanely and given the fullest measure of protection prescribed by the Convention. . . ."

It also recognized—and again I repeat the exact words of this resolution:

" . . . that, even apart from the Convention, the international community has consistently demanded humane treatment for prisoners of war, including identification and accounting for all prisoners, provision of an adequate diet and medical care, that prisoners be permitted to communicate with each other and with the exterior, that seriously sick or wounded prisoners be promptly repatriated, and that at all times prisoners be protected from physical and mental torture, abuse and reprisals."

We hope this committee will take note at this session of the resolution passed without dissent by the International Red Cross Conference in Istanbul and that it will in a similar fashion reaffirm the obligations of all parties to the Geneva convention. We especially hope that North Viet-Nam, which has frequently expressed its abiding regard for humane principles, will heed this unequivocal and specific call reflecting the conscience of the international community.

Madam Chairman, 2 weeks ago, on October 30, the Secretary General made the following statement:

"It is the view of the Secretary General that the Government of North Vietnam ought to give an international humanitarian organization such as the League of Red Cross Societies access to the Americans detained in North Vietnam."

We join in this view, and we urge all the governments represented here today to use their utmost influence so that at least this single step forward can be accomplished. We would indeed welcome the intervention of any organization or group of concerned people who may be able to reduce the anguish of the prisoners and their families. But the Secretary General has made a concrete, limited proposal; its immediate implementation would bring closer the day when the observance of the humanitarian principles of the Geneva convention by all parties is complete.

I have spoken at length on this matter, Madam Chairman, for it is of vital importance to the United States. It is also of paramount interest to all nations of the world. The failure to treat any prisoner of war, wherever he may be, in accordance with common standards of decency, is an affront to all who claim the mantle of civilization.

Mr. DOLE. Mr. President, I would hope that the sponsors of the Cooper-Church amendment would view the amendment I have offered in the spirit in which it was offered, in the spirit of making it clear that the Senate is on record that nothing contained in the Church-Cooper resolution shall in any way prevent the President, directly or indirectly, from taking any action he deems necessary to protect American prisoners of war.

The amendment is limited to Cambodia because the Cooper-Church resolution is limited to Cambodia.

²For a U.S. statement and text of the resolution, see BULLETIN of Oct. 13, 1969, p. 323.

There is significant reason to believe that Americans are being held as prisoners of war in Cambodia and, in addition to the American servicemen, at least two journalists, and perhaps more, are being held there.

The amendment does no harm to the Cooper-Church resolution. It does signal to the world that we care about one American, two Americans, or 100 Americans, or however many there may be, who may be missing in action or prisoners of war in Cambodia.

This is an obligation we have. And this is an obligation that we can underscore by the adoption of the amendment.

BRUTAL TREATMENT OF AMERICAN PRISONERS OF WAR

Mr. GURNEY. Mr. President, there has been much said in the past several years about the American prisoner of war situation, the 1,400 to 1,500 men being held by the North Vietnamese. I do not think enough detailed attention has been drawn to the actual living conditions—if we can call it living—that these men suffer.

There is a notion abroad, possibly put forth by the Communists and echoed in this country by their apologists, that these men are well treated. Let me state here flatly that every evidence indicates they are not.

The evidence we have comes largely from the few Americans who have been released and from a limited number of outside sources. And all of it points to one thing; namely, that the North Vietnamese are treating American prisoners with calculated brutality.

Americans are held in solitary confinement as a matter of routine.

Occasionally they are placed in cages and held up for public display.

Wounded Americans go for days and weeks with their wounds untreated.

One American prisoner with a broken arm was dragged through the streets for the crowds to watch.

Other prisoners have been beaten.

Still others have been strapped up and hung from the ceiling of their cells as punishment for minor infractions.

One American prisoner, a Navy lieutenant commander, was told by the North Vietnamese he had to appear at a press conference and tell foreign reporters he had been treated well and humanely. He refused because, according to fellow prisoners, his treatment had been far from decent.

He had been tied so tightly with ropes that there are still burn scars on his arms.

He had been beaten.

He had been forced to go for days at a time without food or sleep.

He had been held in solitary confinement.

His wounds were allowed to fester and become infected.

His fingernails had been torn out by the roots.

All of this had been done to him, but the North Vietnamese still demanded that he appear before the reporters and issue a statement they had written say-

ing he had been treated well and leniently.

When he refused to issue the statement the North Vietnamese threw him in a cell without light for 38 days to think it over.

Mr. President, this is a commonplace story. It is not unique, but has been repeated time and again.

So it is that when we are talking about Americans being held prisoner we are not talking about people being held in a genteel detention center.

We are talking about men who are forced to live under conditions which the Society for the Prevention of Cruelty to Animals would not allow for animals in this country.

As a nation we must continue to do everything in our power to force the Communists to the negotiating table to discuss this problem seriously and in good faith. They have refused to do so until now, but the pressure of world opinion is mounting on them. We must continue to fan that world opinion until it brings the Communists to reason.

On this subject we will not give up, nor will we be denied.

RESULTS OF THE CAMBODIAN SANCTUARY OPERATION

Mr. GURNEY. Mr. President, I submit for the information of the Senate the results of the Cambodian sanctuary operations as of 8 a.m., May 26, 1970 and ask unanimous consent that the summary be printed in the Record.

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

TOTAL OPERATIONS		
	Number	24-hour change
Individual weapons.....	11,064	+122
Crew-served weapons.....	1,846	+228
Bunkers/structures destroyed....	6,643	+13
Machinegun rounds.....	2,689,724	+97,220
Rifle rounds.....	5,126,838	+32,550
Total small arms ammunition (machinegun and rifle rounds)....	7,816,562	+129,770
Grenades.....	12,574	+265
Mines.....	2,966	+140
Satchel charge.....	500	(0)
Miscellaneous explosives (pounds)	72,000	(0)
Antiaircraft rounds.....	130,567	+3,214
Mortar rounds.....	29,311	+2,562
Large rocket rounds.....	1,090	(0)
Smaller rocket rounds.....	15,061	+262
Recoilless rifle rounds.....	19,565	+1,013
Rice (pounds).....	9,120,000	+86,000
Man-months.....	200,640	+1,892
Vehicles.....	305	+41
Boats.....	40	(0)
Generators.....	36	(0)
Radios.....	179	(0)
Medical supplies (pounds).....	36,000	(0)
Enemy KIA.....	8,044	+187
POW's (includes detainees).....	1,773	-3

() Unchanged.

KENNETH GALBRAITH AND AL CAPP

Mr. GURNEY. Mr. President, the Washington Post for May 26, 1970 carries an interesting letter to the editor from the distinguished humorist Al Capp, dealing with the subject of Mr. Kenneth Galbraith's thesis on American presence in Asia.

Since Mr. Capp expresses himself in such a unique fashion, and hits so directly to the core of the subject, I ask

unanimous consent his letter entitled, "Al Capp on Galbraith" be printed into the Record.

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

[From the Washington (D.C.) Post, May 26, 1970]

AL CAPP ON GALBRAITH

It was cozy, being away from home, to see a letter from someone we're mighty proud of in Cambridge, Mass., in print. Back home we think Ken is the smartest economist since Edna St. Vincent Millay. Smarter. His "Lower the Gross National Product and Raise Foreign Aid" solution is the same as her solution: "Let's Burn Our Candle at Both Ends" but Ken was smart enough not to make it rhyme, and his got taken seriously.

We are proud to see from your paper that Ken is branching out as a military analyst, and that he is, again, adapting his solutions from classic sources.

Ken's theory that the people who "want" the war is an unnamed cabal of high-ranking military officers, is a "new" version of Goebbels' theory that the Germans who "wanted" her humiliation was a cabal of highly-placed Jews, and Joe McCarthy's theory that there was a cabal of hundreds of "pinkos and Commies" in our State Department.

Goebbels didn't name them, any more than McCarthy did, and Ken, a classicist to the bone, doesn't name anyone in his cabal, either.

Like Goebbels and McCarthy, Ken knows you don't have to, to get the hate started and the mobs howling.

And it's no good to ask Ken (anymore than it was to ask Goebbels or McCarthy) WHO?

It's no good to ask if he means the GI's who are sweating it out there. Or the general officers in Asia who are being killed at an unprecedented rate. Or, the top commanders, who, from Harkins to Westmoreland, have ended their careers in bleakness for doing their duty there.

It's no good to remind Ken that it was only because of the stylish naivete of an administration he was a powerful influence in, that the military was called in, in the first place.

Ken's got a sure-fire thing going there and it's going to upset a lot of readers who don't get along further to a story buried among the "Jumbo Shrimp" and "Ground Chuck" ads, headlined "Cambodia Invasion Reported Upsetting Hanoi's Timetable."

AL CAPP.

WASHINGTON.

PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION TO GRANT RELIEF OF PAYEE'S AND SPECIAL INDORESSEES OF FRADULENTLY NEGOTIATED CHECKS DRAWN ON DESIGNATED DEPOSITARIES OF THE UNITED STATES

A letter from the Secretary of the Treasury transmitting a draft of proposed legislation

plans in this respect. Some of them do not think he will be able to carry them out; others do not want him to carry them out, because they believe that war and more war is probably the way to settle this situation.

The Cooper-Church amendment will help him resist the pressure which he is bound to be under. Cambodia has simply revived the old issue of hawks—extreme rightists who believe that the use of military strength is the way to settle all international problems—and doves—those who believe that we should beat our weapons into pruning hooks and plowshares, and not even defend our country.

Neither of these extremist groups ought to have much influence in our country. I am afraid perhaps some of them do. The great majority of Americans, I am happy to say, are not extremists but are concerned over what is best for our country.

We should, of course, keep America adequately armed to protect our own security; but we should not arm ourselves with the intent of dominating every part of this world. That is going just too far.

There are countries in Asia that would like to handle this situation if they were given a chance to do so and if we would keep our hands off. I believe that these countries—Malaysia, Japan, Thailand, Indonesia—could handle the situation in Southeast Asia.

I notice that President Suharto visited President Nixon this morning, and President Nixon commended him for his efforts for peace. I say let it go a little further and let President Suharto's country and the other Asian countries, particularly Thailand, Japan, and Malaysia, work out this problem in accordance with the Guam policy which was laid down approximately a year ago.

We are getting mail that says, "Support the President." They say, "Support the President" when he is doing what they want him to do.

I notice that this morning the President asked for \$500 million to aid in carrying out the desegregation program. When the President talks about improving the lot of the workingman or the relief of the poor, or of ending discrimination a great many of those who now say, "Support the President and expand the war," say, "Don't do what the President wants you to do. Be against him if he is helping the poor people in this country. Good Heavens, what right have these people to expect help at taxpayers expense? We have to use that money for the war going in Asia. Use the money for that."

Well, I say that if you want to help the President, help him resist the pressure that he is bound to be under to carry on this war further—support the Cooper-Church amendment.

I think I have made myself plain. I have more that I could say.

Mr. CHURCH. Does the Senator desire more time?

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

Mr. CHURCH. I yield.

Mr. PASTORE. I want to say that in all the time that has been consumed on this amendment, I have just heard the most effective and the most eloquent speech on the subject. It is not only plain; it is simple and understandable.

Mr. AIKEN. When the President wants to help the poor people of this country in any way, the same hawks say, "Fight him. Don't let him do it. They don't deserve help."

Mr. PASTORE. I say to the Senator, "Amen."

Mr. AIKEN. It is time now for me to stop talking.

Mr. CHURCH. Mr. President, we rest our case with the summation that has just been made by the brilliant Senator from Vermont.

I am prepared to yield back the remainder of my time, if the Senator from Kansas is prepared to do likewise.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the call for the quorum be suspended at 2 p.m., which is the time set for the vote.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. Under the previous order, the order for the quorum call is rescinded.

Under the previous order, the Senate will now proceed to vote on amendment No. 653. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Missouri (Mr. EAGLETON) are necessarily absent.

I further announce that, if present and voting, the Senator from Missouri (Mr. EAGLETON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Wyoming (Mr. HANSEN) and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

The Senator from California (Mr. MURPHY) is detained on official business.

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

The result was announced—yeas 82, nays 11, not voting 7, as follows:

[No. 149 Leg.]

YEAS—82

Alken	Cranston	Hughes
Anderson	Curtis	Inouye
Baker	Dole	Jackson
Bayh	Dominick	Javits
Bellmon	Fannin	Jordan, N.C.
Bennett	Fong	Jordan, Idaho
Bible	Fulbright	Kennedy
Boggs	Goodell	Magnuson
Brooke	Gore	Mansfield
Burdick	Gravel	Mathias
Byrd, Va.	Griffin	McCarthy
Byrd, W. Va.	Harris	McClellan
Cannon	Hart	McGee
Case	Hartke	McGovern
Church	Hatfield	McIntyre
Cook	Hollings	Metcalf
Cooper	Hruska	Miller

Mondale	Proxmire	Symington
Montoya	Randolph	Talmadge
Moss	Ribicoff	Thurmond
Muskie	Saxbe	Tydings
Nelson	Schweiker	Williams, N.J.
Packwood	Scott	Williams, Del.
Pastore	Smith, Ill.	Yarborough
Pearson	Sparkman	Young, N. Dak.
Pell	Spong	Young, Ohio
Percy	Stennis	
Prouty	Stevens	

NAYS—11

Allen	Ellender	Long
Allott	Ervin	Russell
Cotton	Gurney	Smith, Maine
Eastland	Holland	

NOT VOTING—7

Dodd	Hansen	Tower
Eagleton	Mundt	
Goldwater	Murphy	

So the amendment (No. 653) was agreed to, as follows:

Beginning on page 4, line 24, strike all to and including line 6, page 5, and insert in lieu thereof the following:

"SEC. 47. LIMITATIONS ON UNITED STATES INVOLVEMENT IN CAMBODIA.—In concert with the declared objectives of the President of the United States to avoid the involvement of the United States in Cambodia after July 1, 1970, and to expedite the withdrawal of American forces from Cambodia, it is hereby provided that unless specifically authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this Act or any other law may be expended after July 1, 1970 for the purposes of—"

Mr. CHURCH. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, with regard to the amendment that has just been voted on, I wish to state that I was on my way to the floor to make a very brief statement. However, when I got here, the vote was already in progress.

That statement would have been that I proposed to vote for the amendment. I considered the words, so far as the real issue and the substance and the principle involved, as not adding any meaning whatsoever to the major amendment.

These words, to me, were not objectionable at all. I think that the vital matter here concerns the question of restraining at this time the power of the Commander in Chief, the President of the United States.

Mr. HOLLAND subsequently said: Mr. President, I think a little review of the situation we are in might be appropriate at this time.

In the first place, our situation in Southeast Asia began with the passage by Congress of the Gulf of Tonkin resolution. Everyone knows that. No one questions it. It has been admitted numerous times during this debate.

I call attention to two facts: First, that every Senator voted for the passage of that resolution except two; and those two Senators have already been removed from the Senate by the votes of the people whom they most directly represented, the people of their States.

I call attention also to the fact that numerous times we have heard talk about repealing the Gulf of Tonkin resolution. Resolutions are now pending in the Sen-

ate for that very purpose. No one has been able to make any progress on them. Why? Because no one has been willing to jerk the rug out from under the feet of a President who was proceeding to act under general authority given him by the Congress of the United States by the passage of that resolution.

The third point I make is that it would be particularly inappropriate to make such an effort as limiting the powers of the President or pulling the rug out from under his feet in the case of the President, who does not happen to be the President for whom I voted. He was not the President when the Gulf of Tonkin resolution was requested or when it was passed. He inherited a situation under which, when he came into office, there were approximately 550,000 American soldiers, marines, and airmen fighting in South Vietnam, besides others committed in Thailand, Laos, and other nearby territories, and besides Navy men.

So, Mr. President, the reason that I voted against this so-called "softening resolution"—and that is what it was, a softening amendment—was because even it proposes to limit the power of the President of the United States, as the Commander in Chief of troops fighting in the field, to take action which he thinks will best protect them, and best assure their speedy removal from Southeast Asia and their speedy return to the United States.

Mr. President, this softening amendment which we have just adopted is softening in the respect that it adopts the word "limitation" instead of the word "prohibition." In other words, we would seek to limit the President instead of prohibiting him from acting.

That is a difference in degree, but it still claims for Congress the power to limit the President—not in the manner of the making of war, as so clearly stated yesterday afternoon by my friend, the Senator from Idaho, but in the method of the carrying on of the operations of the war.

Mr. President, I am not willing, for a moment, to vote even for a softening or a modification amendment, which still claims for Congress the right to limit the power of the Commander in Chief to do what he deems necessary—and he has in his possession many more facts than any of us—to best protect American fighting men, to best assure their quick and safe return to the United States. That is one of the things in this so-called softening amendment which I opposed, because it puts on record every man who voted for it—and I regret that as many voted for it as did—as being in favor of the power of Congress to limit the Commander in Chief to do those tactical things which are necessary in his opinion to be done in the operation of armed forces in the field confronting enemy armed forces.

The second thing I object to in this so-called modifying prolog is not a modification but an addition. It says that after July 1, 1970, no funds of the United States may be expended legally for any of the purposes in the original resolution—and all four purposes are retained—in these words: "unless specifi-

cally authorized by law hereinafter enacted, no funds authorized or appropriated pursuant to this act or any other law may be expended after July 1, 1970" to carry out the four objectives that were stated in the original amendment and that are still stated in the amendment, or modified or softened or weakened amendment.

The fact is that it is not weakened in that particular because, as originally stated, it would not have prevented the expenditure of funds after July 1, 1970, but would instead have prevented the expenditure of funds as stated in the four objectives without having stated any specified date on which expenditures would be cut off.

Mr. President, to me, it is simply unthinkable that Congress can, after mature consideration, go on record as holding that Congress retains not just the power to declare war—of course, we have that—but the power to limit the Commander in Chief in the tactical pursuit of war and in his decisions which he deems necessary to carry on that war while the war is going on.

Who would have stood here for a moment and upheld the power of Congress to vote a limitation that our Armed Forces in Europe in World War II should not cross the Rhine River, and when the Remagen bridgehead happened to be open to them, that they could not speedily and at once take possession of the bridge, cross over, and make possible the capture of the Ruhr and the ultimate victory which followed soon after?

Who would for a moment claim that Congress has the power to make any specific limitation of use of tactics by the Commander in Chief and the commanders in the field of the Armed Forces of the United States who are pursuing a war, either declared by Congress or, as in this instance, carried on by authority given by Congress very clearly under the passage of the Gulf of Tonkin resolution?

That is just what we would be asked to do if we were asked to adopt this amendment, even in the amended or softened or weakened form, though it is not softened and it is not weakened in all respects, as I have just indicated.

I should like to make one more point, and I think it is a very clear one. The fourth of the objectives we are trying to declare against their being followed up by the commanding officer, by the Commander in Chief, in the event this amendment be adopted, is this. I am trying to find the last version. They have so many versions of this so-called amendment that it is difficult to find a particular one. But the last one does provide that limitation shall prevent the use of the Air Force above Cambodia except in pursuance of certain objectives which we have been pursuing all along but which have not brought on any useful results.

I read from the last form of that amendment. That is after the words that say that no money expended as appropriated by this act or any other shall be used for the following purposes, and this is purpose No. 4:

Supporting any combat activity in the air above Cambodia by United States air forces, except for the interdiction of any supplies

or personnel using Cambodian territory for attack against or access into South Vietnam.

The fact is that for 5 years, while these hiding places have been built up and dug into the ground by the North Vietnamese and the Vietcong—and whatever else one may say about them, one cannot claim that they are not good diggers—they have dug literally hundreds of miles of caverns and tunnels into which to put these supplies. Those supplies have been brought down, in the main, along the Ho Chi Minh Trail. In the main, the interdiction of those supplies, the effort to prevent their being brought down, has been pursued very actively by the use of our Air Force, and everybody knows it; but we have not been able to prevent the continuation of that flow and the vast accumulation in the sanctuaries. Yes, we have had some supplies more recently coming by water to the lower part of Cambodia, and thence across by land. But most of them have come to those sanctuaries along the Ho Chi Minh Trail. For 5 years we have been trying to interdict or prevent, by the use of our Air Force in great numbers, their coming down.

Under this resolution, it would say that it is quite all right to use money after July 1 for the interdiction of enemy supplies or personnel using Cambodian territory for attack against or access into South Vietnam—conceivably for bringing down troops, materiel, or personnel to the sanctuaries; but it is not all right to use the other means of ground attack which the President has successfully used by these raids in attacking and upsetting their plans and capturing great amounts of materiel, in capturing enormous amounts of food, and in capturing tremendous amounts of ammunition.

Mr. President, it does not make sense to me that Congress should be asked, after having given direction which we have not called off—nobody has had any success at all in an effort to repeal the Gulf of Tonkin resolution—to call off the most successful kind of attack which the President has made in the exercise of his command as Commander in Chief toward meeting this problem of bringing in supplies from Russia and from China—and that is where the substantial part of it comes from. I do not think that anyone in the possession of his senses will want to go on record as saying, in the event there should be a resumption of the construction of sanctuaries and the supplying of those sanctuaries, notwithstanding the effort to prevent them by the use of our Air Force, that the President should be cut off in the future from doing just what he has done in destroying them so greatly and capturing vast amounts of guns, ammunition, and food, and that he should be cut off in the future from doing that if it became necessary in his judgment to support his Armed Forces and to help not only save their lives but also get them out of South Vietnam and back to this country.

Furthermore, Mr. President, it is my feeling that we are being asked here to do something which, in the first place, is unconstitutional. I do not believe that we have any such authority to limit the

May 21, 1970

Mr. President, it goes back to what I said earlier, that it is not confined solely to Jackson, but it is also confined to all communities in this country. We have to let everyone know that we will keep the system open and see that those who are aggrieved can find justice and address their grievances through the system, and that they do not have to resort to revolution and violence.

The system can and will respond. That is why we went to Jackson.

Mr. MONDALE. Mr. President, I thank the Senator.

In our letter to the Attorney General, we point out that in this audience of some 100 students, most of whom had been on the scene at the time of the shooting, only one in the entire audience had been questioned by local authorities.

That one had been wounded in front of the girls' dormitory. He pointed out that he had not even been asked to identify, if he could, who it was that had been shooting at him.

We think it is perfectly clear that the local authorities have no intention of doing anything about the Jackson State massacre and that the only hope is for the Federal Government to use its legal authority to convene a Federal grand jury and thoroughly investigate the matter and determine who was responsible and issue an appropriate indictment.

If this is not done, it seems to me, as we have pointed out, that to fail to do so would encourage the committal of further atrocities and the black people in that area would despair of working within a system that looks the other way while their children are slaughtered.

Mr. President, as we finished today surveying the scene and listening to witnesses, an elderly black lady came up to me.

She said:

You know, Senator, in one sense we have seen this many times before around here—black people being killed at the college and elsewhere. But, you know, they have never shot at a girls' dormitory before.

If anyone thinks that we are progressing as a society, perhaps that is one thing he ought to think about.

Mr. President, I ask unanimous consent that our letter to the Attorney General of this date may be printed at this point in the RECORD.

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

MAY 21, 1970.

DEAR MR. MITCHELL: We urge you in the strongest possible terms to convene a Federal Grand Jury in Jackson, Mississippi, to determine whether the killing of innocent people at Jackson State University constituted a violation of federal law.

We were summoned to Jackson on May 20 by state civil rights leaders as an ad hoc committee of inquiry to view the scene of the killings and to hear the testimony of student witnesses and state and local officials.

After inspecting the bullet riddled men's and women's dormitories, the committee members assembled in the Lynch Street Masonic Temple where we listened to testimony with an audience of some 200 students and townspeople. City and state officials who had been sent invitations to participate were not in evidence.

Our investigation revealed the following: While there was some name-calling by the

students there was no evidence of greater provocation than the throwing of one dustpan and of one bottle or small brick. There was no testimony or evidence of sniper fire, as alleged. Every person we talked to on the campus and during the hearing, including campus security guard M. L. Stringer, said they heard no sniper fire. In our opinion the shooting was essentially without provocation.

About 75 state and local police, accompanied by an armored truck, arrived on the scene while firemen were extinguishing a burning dump truck in a field opposite the men's dormitory. The fire had been set, presumably by students, after a rumor spread through the campus that Charles Evers had been murdered. Firemen had withdrawn from the scene when police massed in front of the men's dormitory. There was some name-calling and a dustpan was thrown from an upper story window. Several officers moved to the east side of the building and fired through the upper story windows. No one was wounded at this point.

Police then moved easterly up Lynch Street and massed in front of Alexander Hall. A large number of boys and girls were standing in front of the hall between the street and the building. There was more name-calling. A bottle or small rock was thrown into the street. An officer was seen to raise a bullhorn to his mouth, but no one heard him speak. The crowd grew quiet and then, without warning, there was a volley of automatic weapons fire and shotgun blasts lasting from 30 seconds to one minute. The police fired directly into the crowd and through every window in the five story west wing of Alexander Hall facing the street. About 20 shots were also fired through windows in the middle wing. Pockmarks on a cement wall about 30 feet from the north curb of the street opposite the dormitory indicate some police turned and fired automatic weapons in that direction. This is where the body of James Earl Green was later found.

The interior of the west wing was a shambles, with broken glass everywhere, with blood all over the ground floor entrance where the wounded sought shelter, and with bullet holes through the interior cement block walls. It was a deadly fusillade and it is a miracle more people weren't killed.

After the shooting the police busted themselves picking up spent shell casings while the wounded cried for help. We found no indication the police attempted to help the wounded beyond summoning ambulances with the words, "we shot some niggers."

The police made no attempt to disperse the students before firing on them. They gave no order to disperse. They fired no overhead warning shots. They did not use tear gas. They fired directly into the crowd and into the front of the women's dormitory without warning. They made no effort to aid the wounded afterward. In short, the act had all the characteristics of a mass lynching.

The statement you made in Cleveland, Mississippi, about violent demonstrations and repressive reactions could not have been construed to apply here since—and we cannot emphasize the point strongly enough—there was no provocation to warrant the bloodbath that took place. The claim of self-defense is absurd considering this was a women's dormitory that was stormed.

It is also revealing that of the approximately 100 students at our hearing, only one had been questioned by representatives of local or state police agencies. This was one of those wounded in front of Alexander Hall. He reported two Jackson police officials questioned him for about 45 minutes after the shooting and never once asked him if he could identify the man who shot him, although he told the hearing panel he thought he could do so.

It is perfectly clear, Mr. Mitchell, that neither state nor local officials have any intention of doing anything about the Jackson

State massacre. If you don't do anything, then nothing will be done. We assert here that the moral responsibility for any consequences resulting from your failure to act will rest squarely on your shoulders. We can foresee two possible consequences: One, that the state and local police will be positively encouraged to commit further atrocities and, two, that the Black people will despair of working within a system that looks the other way while their children are slaughtered.

The Black people of Jackson and the students at Jackson State University have displayed remarkable restraint so far. That restraint is a gesture of good faith that can be abused only at great peril.

So we ask you, Mr. Mitchell, to act now by convening a Federal Grand Jury to investigate this tragic episode and to bring to trial those responsible for the deaths of James Green and Phillip Gibbs, the wounding of nine others and the assault on the entire group standing before Alexander Hall.

Sincerely,

Senator BIRCH BAYH,
Senator WALTER F. MONDALE,
Congressman WILLIAM CLAY,
Congressman DON EDWARDS,
Mr. CLIFFORD ALEXANDER, JR.,
Mr. JOSEPH L. RAUH, JR.,
Mr. ROY WILKINS.

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. COOPER. Mr. President, I move to amend section 47 of H.R. 15628, the Military Sales Act, as follows:

Beginning on page 4, line 24, strike all to the end, including line 6, page 51, and insert in lieu thereof the following:

SEC. 47. Limitations on U.S. Involvement in Cambodia: In concert with the declared objectives of the President of the United States to avoid the involvement of the United States in Cambodia after July 1, 1970, and to expedite the withdrawal of American forces from Cambodia, it is hereby provided that unless specifically authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this act or any other law may be expended after July 1, 1970.

The amendment is offered on behalf of the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MANSFIELD), the Senator from Vermont (Mr. AIKEN), and myself.

The PRESIDING OFFICER. The Chair advises the Senator from Kentucky that the clerk must read the amendment, notwithstanding its being read by the Senator from Kentucky.

The amendment will be stated.

The assistant legislative clerk read as follows:

Beginning on page 4, line 24, strike all to the end, including line 6, page 51, and insert in lieu thereof the following:

"Sec. 47. Limitations on U.S. Involvement in Cambodia: In concert with the declared objectives of the President of the United States to avoid the involvement of the United States in Cambodia after July 1, 1970, and to expedite the withdrawal of American forces from Cambodia, it is hereby provided that unless specifically authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this act or any other law may be expended after July 1, 1970."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GRIFFIN. Mr. President, as I understand it, this is an amendment being

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law enforcement officers spent their time picking up used cartridges and left. Maybe they called an ambulance, but there was not one attempt—unless the students forgot everything they saw, and all our witnesses had been there—there was not one attempt on the scene by those who did the shooting to help any of them.

Mr. President, what are our kids to conclude from that?

I invite the attention of the Senator from Ohio to an interesting article in this issue's Time magazine, which I ask unanimous consent to have printed in the RECORD.

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

HOW TO KEEP ORDER WITHOUT KILLING

Four at Kent State. Then six in Augusta Ga. and two in Jackson, Miss. All dead because of the indiscriminate—and unnecessary—use of mass firepower by armed officers and troops trying to control destructive, or disorderly crowds. In each case a basic tenet of all enforcement agencies was violated: apply the minimum amount of force required to accomplish the objective. In an age of mounting civil dissent, many more such situations seem inevitable, raising the question: How can mobs be controlled without killing anyone?

The avoidance of death in most cases is simple: hold fire. Except to stop snipers, shooting to kill can rarely be justified. Even then, the Army, National Guard units and police departments instruct their men to first locate the source of the sniper fire, and to return it only by the pinpoint, one-shot-at-a-time marksmanship of a trained rifleman. Laying down a fusillade, Army military police are told, "accomplishes nothing constructive and creates hostility among innocent bystanders," even if none are wounded or killed. A sniper can often be silenced by surrounding his position and forcing him out with tear gas.

One of the clearest general guides to handling civil disorders is that of the U.S. Army. It places "full firepower" at the end of six escalating levels of force to be employed in riot situations—and then only when failure to use it would lead to the "imminent overthrow of the Government, continued mass casualties, or similar grievous conditions." The first need, the Army emphasizes, is to present a strong "show of force." By that is meant the presence of enough soldiers to convince a crowd that it can be overpowered. Even then, progressive steps for displaying force are urged. They range from keeping rifles in their slings, to fixing sheathed bayonets, then removing the sheaths, to finally placing one round of ammunition in the chambers of the rifles.

The next level of force includes various riot formations, a general principle of which is to always leave a mob a clear exit as troops advance to clear an area. New York City's Tactical Patrol Force has effectively used wedge formations in which officers advance to divide a crowd with nightsticks held low.

SHOOT TO WOUND

The U.S. Army advises use of fire hoses as a next step, if needed. Tear gas, now widely used as almost the first step by many agencies, is considered a fourth-level tactic by the Army. After that comes the use of fire by selected marksmen, shooting at well-defined targets, and finally volley fire. Even then, such fire should be aimed low to wound, rather than to kill.

After the race riots of 1967, the National Advisory Commission on Civil Disorders urged that a crash program of research be undertaken by the Federal Government to develop nonlethal weapons, which could more effec-

tively bridge the gap between a strong show of force and the use of guns. It cited as one approach the practice of arming some Hong Kong police with guns that fire wooden pegs. Other possibilities would be the use of tranquilizer darts and the spraying of slippery foam. Nothing much has come of such research; yet the need for something more effective than tear gas and less deadly than bullets is increasingly an urgent necessity. Meanwhile, what seems to be needed most is better training, especially for young National Guardsmen, and more discipline among all lawmen who must contend with frightening and maddening confrontations in streets and on campuses. Many lives could be saved if armed officers were to follow conscientiously the general principles outlined in a booklet all Ohio National Guardsmen are expected to carry in their pockets when on riot duty: "The keynote of all operations aimed at the curtailment of civil disorder is restraint," it says. "The well-trained, disciplined soldier is capable of dealing successfully with civil disorder if he and his leaders use sound common sense."

Mr. MONDALE. Mr. President, the article states in part:

Army, National Guard units and police departments instruct their men to first locate the source of the sniper fire, and to return it only by the pinpoint, one-shot-at-a-time marksmanship of a trained rifleman. Laying down a fusillade, Army military police are told, "accomplishes nothing constructive and creates hostility among innocent bystanders," even if none are wounded or killed.

The Army has a detailed list of precautions and steps to be taken to put down violence where violence exists. I do not believe there was any at Jackson State, but even if there were, where violence exists, there are a series of escalated ways the Armed Forces can move in, specific ways directed at a sniper by a skilled marksman, in self defense, to act against an identified sniper.

Mr. SAXBE. Mr. President, as a former Attorney General I am sure that the Senator fought against what we call the warning shot. He knows the tragedies that result. A trooper takes after a speeder. The speeder attempts to escape—this was not uncommon years ago—and the trooper fires a warning shot. A policeman down the road observes a car being fired upon and he decides it must be a bank robber, an escaped murderer, or something, and the pursuit is taken up. Before long, shooting breaks out every place by everyone that can get hold of a gun. This way, speeders have been killed by people who observed the warning shot, thinking it was in pursuit of a felon.

As the Senator knows, that often happened.

At Kent State, the guardsmen had come from a truck strike, and they were edgy. Does the Senator say there was malice aforethought in the Jackson State incident?

Mr. MONDALE. I was not there. I have recited the evidence that we had—permit me to say that what the students said—I asked several of them, "What do you think the circumstances were?" and they said, "They were out to massacre us."

Maybe that is wrong. But the point of it is that there are hundreds of black students there who think the local authorities were out to get them, to take their lives. The behavior of the local

authorities is unprecedented and indefensible, the way they fired upon innocent people in a girls' dormitory, the way they refused to help the sick and the dying, and the repeated use of "nigger" and other kinds of hostile comments by the authorities. That was testified to by the students. I believe this fits into the context of the death which occurred previously at the same college, under the same circumstances. It has opened up a tremendous sense of discrimination, hatred, and hostility that I think is so bad as to be obscene and unspeakable. I think it goes substantially beyond just a question of green troops.

Mr. TYDINGS. Mr. President, I should like to commend the Senator from Minnesota and the Senator from Indiana for bringing this one aspect of the facts of the tragedy at Jackson State to the attention of the Senate. I certainly respond in the same way that the Senator from Minnesota has outlined.

Mr. President, I would hope that the Attorney General of the United States would convene a Federal grand jury and make an inquiry into the events of the Jackson, Miss., tragedy.

I think this is one thing which this country has got to demand—equal justice under the law in all parts and all areas of the Nation.

Mr. President, I would be happy to join with the Senator from Minnesota and others in such a request to the Attorney General of the United States. I think that at the very least we need a complete inquiry. And if there has been criminal conduct involved, proper charges should be brought.

I think that the basic liberties of this country demand no less.

I am happy that I had the opportunity to listen to such a graphic and yet constrained description from the Senator from Minnesota and the Senator from Indiana.

I commend them both for the efforts that they took to make the personal surveillance, inquiry, and investigation into this tragedy.

Mr. MONDALE. Mr. President, I thank the Senator from Maryland. His statement is what we have come to expect of his characteristic sense of fairness and justice in these matters.

Mr. BAYH. Mr. President, I will not belabor the point to any great length. But I think it is important that we address ourselves to the relevant fact, and that is where do we go from here.

The Senator from Minnesota and I, as well as others who were present on the scene yesterday, are glad to be joined by the Senator from Maryland in the letter to the Attorney General of the United States asking him in the strongest terms to call a Federal jury.

I think it is important not only to find out who is responsible for the blatant misuse of authority, but also to take the steps necessary to let the students at Jackson State and black citizens all over the country know that this Nation is concerned that this type of thing can happen and will use all of the vehicles of our governmental system to see that those who perpetrated such a miscarriage of justice be brought before the bar of justice and punished accordingly.

offered by the Senator from Kentucky to the pending amendment.

Mr. COOPER. Mr. President, the Senator is correct. It is being offered on behalf of the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MANSFIELD), the Senator from Vermont (Mr. AIKEN), and myself.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COOPER. Mr. President, I move to modify the amendment which I have offered, as follows: In the last line of the amendment, after "1970" put a comma in place of the period and add "for the purposes of".

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. COOPER. Yes. But first I ask that the amendment as modified be read.

Mr. MANSFIELD. May I point out that when the original amendment was offered I think it did state through line 6 on page 5. I wish to ask the Presiding Officer if that is correct.

The PRESIDING OFFICER. The Chair is advised that that was the case.

Mr. GRIFFIN. Mr. President, as I understand it, the Senator can modify his own amendment as long as the yeas and nays have not been ordered.

The PRESIDING OFFICER. The Chair was about to make that announcement. The Senator has that right.

The Chair will ask the clerk to state the amendment as modified.

The assistant legislative clerk read as follows:

Beginning on page 4, line 24, strike the language down to and including line 6 on page 5 and insert in lieu thereof:

"Sec. 47. Limitations on U.S. Involvement in Cambodia: In concert with the declared objectives of the President of the United States to avoid the involvement of the United States in Cambodia after July 1, 1970, and to expedite the withdrawal of American forces from Cambodia, it is hereby provided that unless specifically authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this act or any other law may be expended after July 1, 1970, for the purpose of—"

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MANSFIELD. Mr. President, there will be no voting on the amendment tonight.

Mr. DOLE. Mr. President, a parliamentary inquiry.

Mr. COOPER. Mr. President, I thought I had the floor. I modified my amendment.

The PRESIDING OFFICER. The Chair has ruled the amendment is so modified.

Mr. COOPER. Mr. President, I would like to make an explanation of the change. I note that there is no change in the operative part of the amendment originally offered; there is no change in subsections (1), (2), (3), and

(4). The amendment goes only to the preamble and there are two changes. First, the date July 1, 1970, is made a part of the amendment, and then, the words are added at the beginning of the amendment, "In concert with the declared objectives of the President of the United States to avoid the involvement of the United States in Cambodia after July 1, 1970."

I think the meaning is very clear. I doubt it needs further explanation by me at this time. I yield to my cosponsor, the senior Senator from Idaho (Mr. CHURCH).

Mr. CHURCH. I thank the Senator very much. We have joined together in modifying the preamble of the Cooper-Church amendment for two reasons. During the course of the debate, some Senators have expressed the apprehension that it is just possible that this amendment could be acted upon swiftly, that the conference between the Senate and House might take place with uncharacteristic speed, and that the bill, with the amendment affixed to it, might then go to the White House, be considered by the President, and signed into law, and that all of this might conceivably happen before July 1, 1970, with the result that the law might then be construed, at least by critics of the war, as requiring a premature withdrawal of American troops from Cambodia. For the purpose of eliminating any possible doubt on this score, we have made the operative date July 1, 1970, which conforms with the President's own time limit.

The second reason has to do with the argument that this amendment somehow be regarded as an affront to the President, challenging his prerogatives as Commander in Chief. Nothing could be further from our intentions, a fact borne out by the broad bipartisan support the amendment enjoys.

Our purpose, from the outset, has been to act in concert with the declared policy of the President of the United States, so that the law itself could form a legislative backstop to the President's declared determination to bring American troops out of Cambodia by the end of June. We think this is a responsibility that Congress should share with the President. So, just to eliminate any argument about the purpose of the amendment, we felt that the language of the preamble should be changed as we have now suggested.

Again, I want to underscore what the distinguished Senator from Kentucky has said. None of the substantive provisions in the amendment are changed in any way by the proposed modification of the preamble.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Am I correct that section 47 is a committee amendment?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. And in the event the amendment now offered by the Senator from Idaho and the Senator from Kentucky were adopted, would further amendments be in order?

The PRESIDING OFFICER. Not to that specific part, but to the remainder, yes. All those sections of the committee amendment which are untouched by the amendment now pending would be open to amendment.

Mr. DOLE. It would not be possible to include what appears to be stricken out of the amendment sent to the desk, "or as may be required to protect American forces as their withdrawal from Cambodia proceeds?" If we adopt the amendment in its present form, we could not adopt another amendment to the preamble to include the words just stated?

The PRESIDING OFFICER. The Chair is advised, and responds, as long as it does not touch the exact portion that the modified Cooper-Church amendment touches.

Mr. DOLE. I thank the Chair.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I am authorized by the able majority leader to repeat the announcement already made, that there will be no votes tonight.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate resumed the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

AMENDMENT

Mr. GOLDWATER. Mr. President, earlier today I sent to the desk an amendment to the pending committee amendment, and I intended later to call for it as the business of the day, but I was persuaded out of decency to my friends on the other side not to do it. I am glad of one thing, that it forced a change in the preamble.

So now I send this amendment to the desk and ask that it be printed and lie on the table.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie at the desk.

AMENDMENT OF SOLID WASTE DISPOSAL ACT

AMENDMENT NO 652

Mr. JAVITS. Mr. President, I introduce for myself and the Senator from Delaware (Mr. BOGGS), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RAMPOLPH), and the Senator from Pennsylvania (Mr. SCOTT), an amendment to the Solid-Waste Disposal Act designed to help overcome critical manpower shortages in our Nation's solid-waste disposal and resource-recovery systems.

This amendment would provide financial assistance for the development, operation, and expansion of education and training programs for occupations involving the design, operation, and maintenance of solid-waste disposal and resource-recovery equipment and facilities.

Mr. President, we must take immediate action to both fill the manpower shortages in our Nation's solid-waste and resource-recovery activities and to elimi-

nate the artificial job and skill requirements that restrict the opportunities for employment and upward mobility of low-income and unemployed persons otherwise qualified to fill these manpower shortages.

The amendment I am introducing today is a major step in this direction. It does more than simply authorize funds for manpower training in these vital areas. It also authorizes an investigation of our manpower training needs in solid-waste disposal and resource-recovery. It is deplorable that even though the business of getting rid of our Nation's solid waste is the Nation's third highest municipal expense, we do not even have a sophisticated idea of the number and type of personnel and manpower training programs needed to operate it.

In addition, my amendment authorizes the Secretary to encourage program relationships with industry that would enhance the success and relevance of education and training programs for persons preparing to enter an occupation involving the design, operation, and maintenance of solid-waste disposal and resource-recovery facilities. The relevance of all future manpower training and education programs in the field of solid-waste disposal and resource-recovery will depend on the coordination of manpower training programs with both the industries developing the products that present the greatest solid-waste problems, and the industries developing new technologies to deal with these problems. The technologies and managerial skills of the business world are crucial to the planning and design of innovative and comprehensive systems for solid-waste disposal and resource-recovery.

Specifically, the amendment I am introducing today would—

First, authorize the Secretary of Health, Education, and Welfare to submit to Congress the results and recommendations of a complete investigation into the need for additional trained State and local personnel to, first, develop and maintain solid-waste disposal and resource-recovery activities, and second, carry out the manpower training programs assisted under or for the same purpose of the bill.

Second, authorize the Secretary to provide funds to institutions of higher education and to nonprofit organizations for projects designed to first, train persons for occupations involving the design, operation, and maintenance of solid waste and resource, and second, train persons, including teachers, adult basic education personnel and supervisory personnel, to train or supervise persons in occupations involving the design, operation, and maintenance of solid-waste disposal and resource-recovery equipment and facilities.

Third, authorize the Secretary to carry out occupational training projects which involve a combination of training, education, and employment in the operation of solid-waste disposal and resource recovery equipment and facilities.

Fourth, authorize the Secretary to study the extent to which and manner in which, artificial barriers to employ-

ment and occupational advancement in the solid-waste disposal and resource-recovery field restrict opportunities for employment and advancement in such field.

Fifth, authorize the Secretary to, first, develop and promulgate guidelines, based on the latter study, designed to eliminate artificial barriers to employment and occupational advancement in solid-waste disposal and resource recovery activities and, second, to provide technical assistance in complying with the guidelines.

Sixth, require that all programs must, as a condition for funding, provide procedures for fiscal control, fund accounting, periodic evaluation by an agency independent of the program and compliance with program guidelines developed as required by the amendment.

Seventh, authorize the Secretary to encourage business with operations or products in the solid-waste disposal and resource-recovery field to participate in and cooperate with occupational programs established with the assistance provided by the training amendment.

Eighth, authorize the Secretary to disseminate information which relates to outstanding teaching and training methods, materials, and curriculums developed by projects assisted by the bill.

Public attention recently has focused on the crisis our Nation faces in the disposal of the more than 200 million tons of solid waste processed each year. No one wants garbage, but everybody produces it. The question is, then, what are we going to do about it and who is going to do it? This question and other crucial questions of our solid-waste management crises deserve solid answers in terms of money and trained manpower.

The rapid expansion of our technology and economy, which creates the ever-greater volumes of waste and the ever-greater problems of proper waste disposal, also offers the hope of solving these problems. We have the technology and the managerial skills to solve our solid-waste problems. What we do not have are the funds and the skills to train the necessary manpower to utilize them properly.

In 1968, according to a study completed for the Urban Coalition, there was a total deficit of 13,586 personnel in the sanitation programs and 1,748 personnel in the antipollution programs in 130 of our Nation's cities with 100,000 or more population.

Today, New York City alone needs, to meet its present solid waste disposal schedules, an additional 2,125 unskilled personnel and 450 skilled personnel in its solid waste disposal programs. By 1974, New York City, according to plans developed to deal with its solid waste disposal emergencies, will have almost to double the number of its incinerating facilities. In light of this fact and the fact that the city's solid waste production rate is increasing 100 percent yearly, it is obvious that New York City, as well as other cities, will be confronted in the near future with significantly greater manpower shortages.

The problem is formidable and critical especially when we consider, in light of

our Nation's unemployment crises, that approximately one-half of the vacancies that exist in sanitation and anti-pollution programs could be filled by persons without professional or advanced technical training.

Adding to this problem is a lack of the job analyses and reevaluation of skill requirements necessary to improve job prestige, merit system coverage, possibilities for advancement and public acceptability. This further restricts both the employment opportunities of the low-income and unemployed person and the efficient use of personnel in the field of solid waste management. These employment factors cannot be ignored for they, in concert with training programs, determine in the last analysis the availability of trained manpower at the point of need for our Nation's solid waste disposal resource-recovery activities.

The committee in question is going to mark up the bill tomorrow. The amendment has considerable interest in it, and I hope very much it will be adopted and be a part of the bill which will be reported by the committee.

I ask unanimous consent that the text of the amendment be printed as a part of my remarks.

The PRESIDING OFFICER. The amendment will be received and printed, and will be appropriately referred; and, without objection, will be printed in the RECORD:

AMENDMENT No. 652

On page 2, line 2, strike out the quotation marks.

On page 2, between lines 2 and 3, insert the following:

"(8) The term 'resource recovery' means the processing and recovery of usable materials from solid waste."

On page 6, between lines 16 and 17, insert the following new matter:

"TRAINING GRANTS

"Sec. 208. (a) The Secretary of Health, Education, and Welfare is authorized to make grants to, and contracts with, institutions of higher education, and to any other nonprofit organization which is capable of effectively carrying out a project which may be funded by grant under subsection (b) of this section.

"(b) (1) Subject to the provisions of paragraph (2), grants may be made to pay all or a part of the costs, as may be determined by the Secretary, or any project operated or to be operated by an eligible institution or organization, which is designed—

"(A) to develop, expand, or carry out a program of training persons for occupations involving the design, operation, and maintenance of solid waste disposal and resource recovery equipment and facilities;

"(B) to train persons, including teachers, adult basic education personnel, and supervisory personnel to train or supervise persons in occupations involving the design, operation and maintenance of solid waste disposal and resource recovery equipment and facilities;

"(C) to carry out occupational training projects which involve a combination of training, education, and employment in the design operation and maintenance of solid waste disposal and resource recovery equipment and facilities.

"(2) A grant or contract authorized by paragraph (1) of this subsection may be made only upon application to the Secretary at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

want to make the reimbursement if such is deemed appropriate.

Mr. President, I thank the Senator from Nebraska for making this a matter of record. I hope that out of this incident we can get a full clarification of the matter of the franking privilege under the circumstances which the Senator has outlined.

Mr. CURTIS. Mr. President, I thank the Senator for his forthright statement.

The junior Senator from Nebraska is not a member of the Ethics Committee. However, some of these matters do come within the jurisdiction of the Committee on Rules and Administration.

I am aware that the franking privilege law and regulations are rather broad. The purpose of this is so that material directly involved in the public issue under discussion can be inserted.

I directed my remarks not at whose frank was involved nor at the other parts of the communication. I directed my remarks entirely to the communication signed by Sam Brown and David Hawk and primarily to the request for funds.

There are more than 200 million people in the United States. Millions of them are concerned one way or another about all public issues. Millions of them are concerned about the matter now pending before the Senate. If 1 million were to respond with a sum of money averaging 50 cents, someone would have collected \$500,000.

I assume that Sam Brown and Dave Hawk would be the recipients. They asked for it.

I do not think that Brown and Hawk should be in a position of embarrassing the entire Senate of the United States. I think that the entire Senate has a real stake and a real interest in matters of this kind.

I happened to serve in Congress prior to our entry into World War II. At that time there was great emotion all over the country about the various acts of involvement.

In those days they had an expression: "Aid short of war."

Television was not with us at that time. But radio was in great use.

A distinguished Member of the House of Representatives, motivated by patriotic desires, was somehow involved in an appeal for funds in order to get the information to the people.

The matter received considerable attention in the House of Representatives. I am not sure that the information was all shown in the Record. But there was grave concern among the leadership.

I do not want something like that to descend upon the Senate. The Record will show that I have singled out no Senator. I have not mentioned any Senator. My remarks were directed primarily at these outsiders and at the raising of funds behind the cloak of secrecy of a post office box which might be compared to a Swiss bank account that is operated by number.

Mr. HATFIELD. Mr. President, I would like to suggest—and, in fact, if I might make this in the form of a request, because the Senator from Nebraska is the ranking Republican member of the Senate Committee on Rules and Administra-

tion—that I would appreciate it if he would take this particular case, along with all of the material that I would be happy to provide him which he may not have and with the material that he does have, and present this matter to the Committee on Rules and Administration in order that we might have a clear understanding of the propriety or the impropriety of this act. Perhaps at the same time, the Senate ethics committee might look into it.

This matter of the use of the franking privilege needs to be clarified.

I have received solicitations under the franking privilege of Congress asking people to contribute to a right-to-work drive and to send their contributions to a certain post office box.

I have received communications under the franking privilege on behalf of a new student organization to compete with the NSA—National Student Association—that castigated the organization in strong language and requested that contributions be sent to a certain address.

I am not saying that this is right or wrong, or that the other is right or wrong.

I am simply saying that I think this is perhaps the time and that this is a good vehicle on which to move to get a new clarification or definition of the franking privilege.

I am told by legal counsel that my actions were legally right.

I do not know. But I do know that I do not appreciate the situation in which this has placed my office or the Senate. I do feel, as the Senator from Nebraska has said, that the entire Senate is involved in this particular thing.

I only regret that it was through my frank that it became involved.

Mr. BELLMON. Mr. President, in connection with the question the distinguished Senator from Nebraska has raised, I have in my possession a franked letter that arrived in our office this week. It is on the letterhead of the Columbia Society of International Law. It does not bear the signature of any Member of the Senate.

After this letter arrived we checked into the rules and we find in section 4166 on page 341 of the Senate Manual that—

A person entitled to use a frank may not lend it or permit its use by any committee . . .

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

Mr. BELLMON. I yield.

Mr. BYRD of West Virginia. Mr. President, I am most reluctant to bring up the question of the rule of germaneness. I think it might be argued as whether or not the matter which has been brought before the Senate by the able Senator from Nebraska is germane. I think, in its overall sense, there was some degree of germaneness to it. I think he performed a definite service in bringing it before the Senate. I am shocked and greatly disturbed about the use of the frank for the purposes described and by the persons identified, who are not Senators.

However, at the same time, I do not think it was entirely on point with refer-

ence to the unfinished business before the Senate. I did not raise the question of germaneness because I thought it would be argued that the Senator's speech was germane.

I am very reluctant to press the point in connection with what the Senator from Oklahoma has to say, but I do think that his remarks are not germane to the unfinished business before the Senate. I am sorry to have to interrupt him.

Mr. CURTIS. Mr. President, I appreciate the position of the acting majority leader.

Mr. President, I ask unanimous consent, notwithstanding any issue of germaneness, that the junior Senator from Nebraska be allowed to continue for an additional 5 minutes in order that I may yield to the Senator from Oklahoma who started to make a statement.

After that I shall yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, I do object because if we are going to make the rule of germaneness work, we cannot agree under a unanimous-consent request that it be set aside.

I am embarrassed that I have to raise this question with the Senator from Oklahoma because he very graciously agreed a while ago to delay his remarks until a time today when the rule will not be operative.

Mr. CURTIS. Mr. President, I would like to be heard on the point of germaneness. I shall not delay the Senate long.

Mr. President, if this is germane to our discussion, then the content of the letter is germane to what is under discussion. If it is not germane, that would go to the point of whether or not the matter might be franked. I believe any discussion of any facet of the pending resolution must be germane. I do not see how we can narrow the discussion of the pending resolution and exclude certain facts and arguments that have to do with the basic issue involved in the resolution. I regard this appeal of Mr. Sam Brown and David Hawk as part of it.

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

Mr. CURTIS. I yield.

Mr. BYRD of West Virginia. Mr. President, I have listened very carefully to what the able Senator from Nebraska said about the item that was franked.

The fact that it dealt with the amendment that has been offered by the able Senator from Oregon and other Senators—the so-called amendment to end the war in Vietnam—led me to believe it was to some degree, at least, germane, even if the main thrust of the Senator's statement was not. So I did not object.

But now we have gone into an entirely different subject and I suppose if we allow the Senator from Oklahoma to proceed with the discussion of his matter before the Senate, then I could talk about my being chairman of the Cancer Crusade in West Virginia and whether or not it is ethical for me to frank a letter asking funds for the cancer campaign, all of which, of course, would be utterly

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not germane. The line must be drawn at some point.

Mr. President, I have to object.

Mr. CURTIS. Mr. President, the material the Senator from Oklahoma started to read, which he has now handed to the Senator from Nebraska, begins:

The United States invasion of Cambodia is in violation of its commitments. . . .

The letter is from the Columbia Society of International Law, School of Law, Columbia University, New York, N.Y.

I assumed all this resolution and debate concerned what was happening in Cambodia. Is the discussion of an editorial on this matter germane but this document not germane?

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

Mr. CURTIS. I yield.

Mr. BYRD of West Virginia. Mr. President, I certainly have no objection to the discussion of any matter that is germane to the unfinished business, but from my listening to the initial remarks by the distinguished Senator from Oklahoma I got the distinct impression the matter was not germane. I have not read the letter being held in the hands of the distinguished Senator from Kansas. If the matter is germane I, of course, have no objection.

Mr. CURTIS. Mr. President, I yield the floor.

AMENDMENT NO. 627

Mr. CHURCH. Mr. President, I send to the desk a perfecting amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 9, line 1, strike out "for any purpose" and insert in lieu thereof "for foreign assistance (including foreign military sales)".

On page 9, line 8, after "appropriation" insert "for foreign assistance (including foreign military sales)".

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the amendments be considered en bloc?

Mr. CHURCH. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I reserve the right to object only to clarify what these amendments are—I wish to ask the Senator whether this is the amendment that the Senator from Florida has been interested in, as well as the Senator from North Dakota.

Mr. CHURCH. The Senator is correct. Regarding the foreign assistance bill and the Foreign Military Sales Act, the amendment provides that appropriations shall not exceed the amount authorized in the future.

Mr. GRIFFIN. This has no relation to the so-called Cooper-Church amendment?

Mr. CHURCH. That is correct. This has nothing whatever to do with the Cooper-Church amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

Mr. CHURCH. Mr. President, I promised the distinguished Senator from

Alabama I would yield to him, which I gladly do at this time.

ORDER OF BUSINESS—OBJECTION TO SUBMISSION OF REPORT OF A COMMITTEE

Mr. SPARKMAN. Mr. President, from the Committee on Banking and Currency, I report favorably with an amendment the bill S. 3302, to amend the Defense Production Act. I submit a report thereon. I ask unanimous consent that the report be printed together with additional and individual views.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, I object.

Mr. SPARKMAN. Mr. President, I thought my report was privileged material.

Mr. BYRD of West Virginia. Mr. President, this item falls in the category of morning business and should be handled during the period for the transaction of routine morning business—or later today when the rule of germaneness falls.

I am embarrassed to continue to make these objections.

Mr. SPARKMAN. I will reclaim my papers and come back later.

Mr. CHURCH. Mr. President, for the information of the Senate, when will the germaneness rule expire this afternoon?

Mr. BYRD of West Virginia. Mr. President, I can answer the Senator. It is at 3:32 p.m. today.

Mr. CHURCH. In approximately an hour. I thank the Senator.

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

Mr. CHURCH. I yield.

Mr. GORE. Mr. President, I call to the attention of the Senate certain information which seems to me to illustrate the need for Congress and the country, indeed the entire Government, to act so as to preserve the equation between the coordinate branches of the Government, particularly the executive and the legislative.

Although the movement of U.S. troops into Cambodia was not the subject of consultation with Congress, I would like to read a letter addressed to "Dear Fellow Officer," Vice Adm. W. R. Smedberg III, president of the Retired Officers Association. This letter is dated May 13.

Before reading an excerpt from the letter, Mr. President, in order that nothing be taken unfairly out of context, I ask unanimous consent that the entire letter be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. GORE. Mr. President, I read a paragraph from this letter:

President Nixon told me, and a few other officers of veterans and patriotic organizations, two days before his talk to the Nation, that the action he was soon to order was imperative if we were to escape the probability of total and humiliating defeat in Vietnam. Information from captured enemy documents, prisoner interrogation, aerial reconnaissance and other intelligence sources available to him had convinced him and his military advisors that our position in South Vietnam would soon be untenable, the Vietnamization program destroyed, and a hu-

milating defeat in Vietnam almost assured unless he ordered immediate and positive action to destroy the forces and massive supplies of arms, ammunition, food and equipment which had been stored in underground shelters in North Vietnamese "sanctuaries" on the Cambodian side of the border along the great length of South Vietnam. These stores were, he said, sufficient to supply several North Vietnamese divisions for six months.

Mr. President, that is the fourth paragraph in the letter. I direct the attention of the Senate to the entire letter, which will be printed hereafter.

Mr. President, if this letter is correct, then the President was imparting this information to nonofficials of the U.S. Government—I do not know how many; this says a few. But it was withheld from the Congress of the United States, insofar as this Senator is aware. In fact, Secretary of State Rogers appeared before the Senate Foreign Relations Committee on April 27. He testified at some length, considerable length, about 3 hours. It is, of course, possible that the Secretary of State was not aware, when he appeared on the 27th and also on April 2, of the planning underway to involve the United States militarily in Cambodia or that the invasion plans were actually then awaiting the President's decision.

If so, this would be an unusual, if not irregular, situation. If not, vital information on this grave issue was withheld from the committee and the Congress in violation of the spirit of the Secretary's assurance of April 2, that he would consult to the fullest extent possible with the committee on any possible military action by the United States in Cambodia.

The Sihanouk government was overthrown on March 18, thereby setting in motion a chain reaction that led to the opening of a third front in the Indochina war. The Committee on Foreign Relations, as I have said, met with the Secretary of State on April 2 and again on April 27. At both of those meetings, the members were virtually unanimous in urging that the United States not become involved in any way in Cambodia. As I have said, there was no indication whatsoever at the meeting on April 27 that any proposal was being considered in the executive branch other than Cambodia's request for military aid.

The Secretary of State told the committee that the real problem before the Government was on military assistance. There was no intimation, let me repeat, of any kind whatsoever of which I am aware that a decision has been made or that a decision was imminent on plans to invade Cambodia.

We now learn from the letter I have read that the President, according to this letter, was discussing with private citizens what was described as a grave threat some 2 days before his speech to the American people, at which time the Senate, so far as I know, first learned of this move.

We now learn that the planning for action in Cambodia began as soon as Sihanouk was ousted. Secretary Laird related this fact in a background session with reporters on May 14. The Senate Foreign Relations Committee requested

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a stenographic copy of the conference. I have a stenographic copy of the notes of that meeting, which I ask unanimous consent be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.
(See exhibit 2.)

Mr. GORE. Mr. President, I would like now to read a brief excerpt from this background conference, a statement by Secretary Laird as reported by the stenographer for the Department of Defense:

First, when the change of government came about in Cambodia, I requested planning be done at that time on the various courses of action that could be taken. Our government planning was started in the latter part of March, and various proposals were presented to me. I approved certain actions and made certain other recommendations to the National Security Council and the President.

The plan that is currently going forward is a plan submitted by me to the National Security Council and supported by me.

Let me repeat that it may be possible that Secretary Rogers was unaware of such plans, unaware of such decisions pending or decisions taken. On this I am not advised.

If the Secretary of State were unaware, then it is a highly unusual, even irregular performance for a high administration official. If the Secretary were aware of these facts which I have related in part, and which will appear in greater part from the insertion soon to appear in the RECORD, the information was deliberately withheld from the Senate of the United States in violation of the Secretary's commitment to the committee, at an earlier date, to keep the committee fully and frankly informed.

EXHIBIT 1

RETIRED OFFICERS ASSOCIATION,
Washington, D.C., May 13, 1970.

DEAR FELLOW OFFICER: Our Commander-in-Chief, the President of the United States, has made a difficult and courageous decision to attack and destroy North Vietnamese bases and war supplies along the South Vietnamese border inside Cambodia. His goals are understandable, particularly to military men; (1) to shorten the war, (2) to save American lives, (3) to enable his Vietnamization plan to carry on to a successful conclusion, (4) to permit self-determination of the South Vietnamese to continue to fruition, and (5) to minimize the prospects of a disastrous defeat as the strength of our forces in Vietnam grows less during his previously announced withdrawal program.

The order has been given, American military men are now in combat carrying out the Commander-in-Chief's orders, and some are dying in order that a larger number may live.

At home, opponents of the Administration, the "Doves", the Peace-At-Any-Price advocates, and those who have been persuaded that the United States has only to withdraw its forces from Southeast Asia in order for universal peace to exist throughout the world, are working right now to tie the hands of our President in this endeavor. Many well-meaning supporters of those policies seem to forget the additional jeopardy to which such actions will subject our troops in Vietnam.

President Nixon told me, and a few other officers of veterans and patriotic organizations, two days before his talk to the Na-

tion, that the action he was soon to order was imperative if we were to escape the probability of total and humiliating defeat in Vietnam. Information from captured enemy documents, prisoner interrogation, aerial reconnaissance and other intelligence sources available to him had convinced him and his military advisors that our position in South Vietnam would soon be untenable, the Vietnamization program destroyed, and a humiliating defeat in Vietnam almost assured unless he ordered immediate and positive action to destroy the forces and massive supplies of arms, ammunition, food and equipment which had been stored in underground shelters in North Vietnamese "sanctuaries" on the Cambodian side of the border along the great length of South Vietnam. These stores were, he said, sufficient to supply several North Vietnamese divisions for six months.

I am convinced that the President had no alternative; to do nothing would almost certainly insure the loss of all that we have been fighting for in support of free peoples everywhere, and the abandonment of the principles for which more than 40,000 American men have died in this war.

The voices of the organized minority are stridently raised against our President's action, giving great comfort and aid to the enemy.

I believe that, as a citizen who holds, or has held, a commission in the Armed Forces, you will want to add your support to those of us who have for too long been the "Silent Majority" by upholding our Commander-in-Chief in his resolve to bring about an honorable peace, maintain the integrity of this nation, fulfill its commitments to its allies, and honor those who have died in their efforts to preserve freedom for all peoples.

At the time of our meeting, the President gave us a detailed briefing on our general military posture. Beginning on page 3 I have briefly outlined some of his more pertinent and important points.

If you agree with the viewpoint I have expressed, I urge you as a private citizen to take immediate and positive action along the lines suggested on the following page.

Sincerely,

W. R. SMEDBERG III,

Vice Admiral, U.S. Navy, retired, President.

EXHIBIT 2

SECRETARY LAIRD'S MEETING WITH GODFREY SPERLING GROUP, MAY 14, 1970

Secretary LAIRD. However, will be judged finally on the basis of its overall strategic success, and I believe that this is the place where this operation will prove to be even more significant, and those were outlined by the President very carefully in his briefing of the Congressional leadership, the governors, in his press conference the other day; and they are, of course, the impact on Vietnamization and the pacification program which is tied up with the security aspects of Vietnamization.

Two, the rate of withdrawals of Americans from Vietnam, and three, the American casualties, as we move into the third and fourth quarter of this calendar year.

But I think in the final judgment, although it is a tactical success now in every way, the mission will be proven to be even more important from the standpoint of long-term strategic guidelines that were set forth by the President.

Question. I was travelling during this period and I saw several reports, and maybe these questions have been resolved while I have been away, but did you or did you not have reservations about our going into Cambodia?

Secretary LAIRD. First, when the change of government came about in Cambodia, I requested planning be done at that time on

the various courses of action that could be taken. Our Government planning was started in the latter part of March, and various proposals were presented to me. I approved certain actions and made certain other recommendations to the National Security Council and the President.

The plan that is currently going forward is a plan submitted by me to the National Security Council and supported by me. I don't want to give the impression that when I present things to the National Security Council that no discussion takes place, that there is no give and take between the members of the National Security Council and others.

Every proposal which I have made to the National Security Council has not always been the proposal that has been adopted. I have made more proposals to the National Security Council than anybody else concerning the Department of Defense and military operations. But, I think the batting average has been pretty good as far as the Department of Defense is concerned if you go all the way back on the Vietnamization program, the outline of that, the timing of the troop withdrawals; if you go back on the biological research changes that we have made as far as biological warfare and as far as chemical warfare are concerned.

As far as this decision is concerned, I supported it fully and I continue to support it. There might have been a few things such as timing of this operation are not exactly in accordance with the plan that I submitted, they are within a few days.

Question. Did you have any conversations at all with the President about the impact domestically?

Secretary LAIRD. Of course, I presented these evaluations to the President in very emphatic and strong terms. I did not anticipate, however, the Kent University affair and I would be misleading you that I even indicated that. But I certainly was aware of these problems. I am also aware of the Congressional problems involved. I spend more time with the Congress than anyone else does. I probably talk to more members of Congress, as well as more students, than anybody else does by the way. I understand those problems.

But, we are over here right now. Everyone is concerned about the Cooper-Church bill which is going to be up for consideration in the Senate today. When I was over in the Congress, I used to be very interested in working with few limitations on the Executive Branch of Government, and I understand that, and I think it is a perfectly legitimate area to operate in, because I believe that Congress is certainly a co-equal branch of the Government. And I don't get into these local arguments over this business because I've been on the other side of that issue for too long.

The Cooper-Church Amendment is a serious Amendment. It will be interpreted not for its effect of what is going on in Cambodia, because it doesn't start until this operation is all over. But, as far as would opinion is concerned, it will have a tremendous effect upon the turnaround of President, even though it should be passed in the Senate, then in the House. It has that kind of effect.

The point I am trying to make here is that there are other amendments involved in that foreign military sales bill that are more far reaching and far more damaging as far as the security of the country, from my point of view, than many people realize. Of course, they deal with the disposition of military surpluses. This is a whole new ball game that is written into that bill, and I don't think that many people realize that.

It is a whole new ball game as far as our financing some of the commitments we have made to countries already, including Israel, including China, including Turkey. You can

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point to almost any country. These are very far-reaching changes that are in this bill, and there isn't much attention being paid to this.

Question. In the bill or in the amendment?

Secretary LAIRD. In the bill, as amended.

Question. In other words, in the bill as it comes to the floor.

Question. If you could respond just for a minute, Mr. Secretary. You stated you submitted as a plan of action back to Cambodia. Could you tell if this was your top option or just one of half a dozen possibilities? Did you favor this above others as possible approaches to the Cambodian question?

Secretary LAIRD. This was the top option. The problem here, to be very frank with you, the listing of the sanctuaries, is not exactly the same as in the program as I presented. They are all covered. But it is not in the same order and I don't want to mislead you—the order has been shifted, but all of the sanctuaries are in the plan.

QUESTION. On U.S. troops vs. non-U.S. troops, then from the beginning you favored the use of U.S. troops?

Secretary LAIRD. Well, you see, the reason you get into that, is that as soon as you go into the Fish-Hook area U.S. troops are involved. You understand that because the 25th Division and the 1st Cavalry Division are right opposite that area. They have the responsibility. The sanctuaries along the II corps area, the IV corps area and the rest of the III corps area, we have removed the Americans in those areas and they have no overall operational responsibility against the other sanctuary areas.

So, the question of timing is important from the standpoint of when we go into the various sanctuary areas. Now, as far as the Fish Hook area is concerned, this is the where the command and control operations have been emanating. We have had four or five different fixes in that area where the command and control is operated over a period of the last few years. That, at the start, looked like it would be a very tough area.

Now what happened was that after the time the original plan was submitted and the time that the final decision was made by the President of the United States, the military situation within the sanctuaries changed. You had a situation where the risk involved militarily became much less than the risk involved militarily at the start of the operation when it was originally in the planning stage. I'm sure you understand that when the American planners were first looking at this situation, you had a situation in which the North Vietnamese were poised against South Vietnam. Starting about the middle of April, or in that general area, you found your forces facing the other direction and moving away from the sanctuary areas so you would not have as great a military confrontation.

So, the risk involved to Americans became much less at that particular point when the North Vietnamese became involved in pointing a large number of their forces in the other direction. And when the risks became less, not only as far as the South Vietnamese forces, but less also as far as the American forces, and when the possibility of the lower casualties, much lower casualties, because of a lower military risk became apparent from our intelligence information, there were certain changes and I supported those particular changes.

In the original plan, when you had a complete military confrontation up and down the border, and all of the forces were aimed toward South Vietnam, it was a little bit different situation. When the risk to the American forces was at a lower level because of changes that had been made in the intelligence information that showed the

enemy were pointed towards Cambodia at that time, this was the time to hit.

Question. And that changed your mind on these . . .

Secretary LAIRD. That changed my mind. Now, so, when you look at the different options that were available to us, I think you have to consider the time period in which you are looking at those options. The military threat that was posed at that time, not only to the Americans but also the South Vietnamese. You know, some people say you have until the 30th of June. Now, I am not sure that we will have weather conditions that will permit us to go until the 30th of June.

There are several things in the timing, the weather conditions, and the fact that you would not have a major military confrontation because of the shifts that had come about.

Question. Mr. Secretary. I don't think—I don't quite understand—it seemed to me that with the shifts that came about a reduction of sanctuaries would become less important. I don't know why suddenly this became such a critical problem.

Secretary LAIRD. This is not an operation to destroy people. This is an operation to destroy facilities and logistics support. They could not remove all of their equipment. They could not remove their ammunition. They could not remove any of this buildup in the time period that was involved. You know there was some criticism about using A-52's three days before you went into Fish Hook because it gave them warning. That is not important. We weren't interested in destroying, necessarily, the military forces. We were interested in making the movement as easily as we could as far as the Americans, were concerned, but we weren't interested in destroying the people. You don't hear us putting out body count and things like that. I have stayed completely away from that kind of assessment of this operation.

This operation is being, I hope, judged on a tactical basis on what is actually destroyed and uncovered.

Question. What do you think of the argument that that really isn't a very persuasive case because the Russians can resupply them and the Chinese can resupply them with rice in a relatively short period of time, and, therefore, you have not really accomplished a lot.

Secretary LAIRD. Well, my answer to your question is that it will take from six to nine months. And, as you know, I keep in fairly close touch with General Abrams and he has always felt that during this period up through August into September is the most important period in our overall Vietnamization program. He feels that this period of time, because of really our great emphasis on the training and the increase in the RF and PF started just a year ago at the time of the Midway Conference when we approved the largest increase.

This training program is going very well. There is not a more sensitive military commander that I know than General Abrams, and no more sensible military commander. He feels that this period of time is very critical and an important period.

Question. If I may ask another question. Secretary LAIRD. They may have to go back into the sanctuary areas.

Question. Americans or South Vietnamese? Secretary LAIRD. The South Vietnamese. At that time, they will be in a position where they can carry on this operation, even on the basis of 24 to 36 hours. They will be in that particular position.

As I told the committee the other day, I would not be in a position where we said that from now on the South Vietnamese would never go into the sanctuaries. I just think that is a ridiculous type of commitment for the United States Government to take at this

time if we really believe in the Vietnamization program, and I do.

Question. If there were not the angry backlash, a massive backlash, in this country to which the Administration has had to address itself, wouldn't have the President have announced that you are pulling out of there in the middle of this week . . . in other words, it seems as though you are engaged in an incomplete operation simply to placate public opinion?

Secretary LAIRD. Well, that is not the case. The President made the decision to announce some of the timetables. He has not announced all of the timetables. There is a timetable on every execution and in every plan that comes in.

Now, the decision as far as the two areas in which Americans have come out and are coming out this week—they have come out of other areas, but these are major numbers, in the thousands—those operations are completed. They have gone on schedule and they are completed. I don't believe that we should not announce the completion of operations and we have given our troop levels—

Question. My question is, have you intended all along to announce that we were going to come out the middle of this week and at the end of—

Secretary LAIRD. Oh, yes, we are going to announce each operation.

I don't know why it is so unusual. We have more newsmen, who are even using General Abrams' plane to take them around, and this idea that we can keep the completion of an operation a secret, I just don't understand that because you can't do it, Peter.

Question. Well, that is a little different. How do you know this is going to be completed, you know, at the end of a week?

Secretary LAIRD. Well, we tell them. They are briefed on this—how long they expect to go into a particular area. We have not kept that as to when it is completed tomorrow or Saturday—

Question. I know, but I don't understand what completion schedule can be laid down in advance on a military mission when you don't know what you are going to run into, the job of destroying supplies, the opposition you might meet—what is the theory behind announcing that certain units will be withdrawn by the end of a week and by the middle of the following week, I don't quite get that.

Secretary LAIRD. Well, in this particular operation, this week, the operation was scheduled to go on for 10 days and it was finished in seven. It was scheduled on the basis of 7 to 10 days based on the amount of time it was necessary to do the search and the fact that they thought there would be military encounter. This is one of the areas where we uncovered quite a bit of material.

The military action did not take place, and we are not going to stay there if we don't need to stay there for 10 days simply because we had no military activity involved.

Question. Could you unravel something for me, please?

Secretary LAIRD. I hope I can.

Question. You said that the 5th and 25th American Divisions were in position, therefore, we sent—

Secretary LAIRD. It is the reverse.

Question. The 1st Cavalry and the 25th Division were in position, and, therefore, because they happened to live there they were selected to go into Cambodia. Well, of course, as you know, the 1st Cavalry with 450 helicopters and they went all the way from Camp Evans to relieve Khe Sanh so it would seem that you don't necessarily have to use the forces on the border. That is one thing that confuses me.

The second thing that confuses me—

Secretary LAIRD. I don't know why that confuses you because we decided to use the

forces that had the security responsibility and then we—

Question. Well, you had plenty of air lifts to take care of the South Vietnamese.

Secretary LAIRD. Well, we airlifted South Vietnamese behind the border area, but they didn't have the security. You know who has the security on that border area right now.

Question. Right.

Secretary LAIRD. Okay. Well, we didn't change the security responsibility.

Question. But there would—

Secretary LAIRD. The security responsibilities remained the same and we airlifted the South Vietnamese in behind that area.

Question. But that wouldn't dictate what you do though.

Secretary LAIRD. Now, if you wanted to take and put—change the security responsibility and air lift the 1st Cavalry Division down into IV corps where we pulled all American forces out and bring some South Vietnamese up opposite and change the security responsibility, it could have been done, and I looked at that, but there are certain disadvantages in moving American forces back into the IV corps area. And those disadvantages, changing responsibilities in the IV corps area, far outweighed the advantage that you are talking about as far as the 1st Cavalry.

Question. Do I infer correctly that you could not have done the whole operation as finally approved solely with South Vietnamese troops just on the basis of numbers and equipment.

Secretary LAIRD. You could have done it, but you would have to change certain security responsibilities along the border.

Question. Is that what you are talking about when you talk about considering moving the 1st Cavalry as a replacement for South Vietnamese troops that you would have used then?

Question. The second point, just a short one, on Tuesday, you told the Senate Armed Services Committee that there was evidence of stepped up activity from the border sanctuaries in Cambodia against South Vietnam—Americans and South Vietnam and you were, therefore, worried about increases in casualties.

This morning, if I tune you in correctly, you said the enemy was turning the other way and going into Cambodia which would seem to reduce the threat to Americans and Vietnamese.

Secretary LAIRD. As far as these operations were concerned, first, there are two questions that you asked there.

First, as far as the orders to the North Vietnamese and VC in-country during the period leading up to the first few weeks in May, there was no question and, many people fail to realize that this has come about, this last week the high point which was predicted in all of the documents and all of the intelligence information that we had and picked up during that period, and I discussed this before the Committee the other day, has come about.

This idea that there has not been an increase in activity—there has been an increase in activity in the last 10 days. This did come about, and we can show it to you statistically. Take our casualty figures today—the casualty figures that were released in Saigon this morning.

Question. Do you blame them on the raids—I don't believe that.

Secretary LAIRD. No, that is not the point that I am making. I am talking about the increased activity in-country that was being supported from Cambodia, and they will be supported from Cambodia.

Question. You can really confuse me, Mr. Secretary because—

Secretary LAIRD. Well, I am sorry.

Question. Because with the movements from the middle of the month to the end of the month, the movement that embraced the President's speech of the 20th and the

30th which way were they—you said earlier westward.

Secretary LAIRD. As far as the sanctuary areas are concerned, there was movement in the direction of by one-third, in the direction of Cambodia. I don't want to give you exact percentage, but about one-third in that area.

Question. Westward?

Secretary LAIRD. Yes.

Question. Were there movements that increased the threat to our forces?

Secretary LAIRD. There were movements, and there were plans and programs—if these had come about—now I don't want to give you the impression that they have not because they have in the last week. In-country there were movements supported from the sanctuary areas in III and IV corps.

Question. You earlier gave the impression that what happened after the 15th of the month was that the North Vietnamese troops in the sanctuaries began moving westward.

Secretary LAIRD. Yes, about a one-third, 33 percent, about that. Don't use that exact—

Question. About how many? 30,000? 40,000?

Secretary LAIRD. Well, the full force in-country, the highest force in-country is around the 40,000 level. This was down to its low at 10,000 when they moved in-country.

Question. In-country means in Vietnam?

Secretary LAIRD. I am talking about in Vietnam. Now as they prepared for this particular highpoint, the in-country movement does go up. *The important thing that I was trying to point out here was that there was a movement out of the sanctuary areas in the other direction for the first time, and this makes the military challenge within the sanctuaries a much lesser threat because you have—now, if I have given the impression—*

Question. I understand that much.

Secretary LAIRD. Now, as far as the high point is concerned and as far as their plans for activities against American forces, these plans were from the sanctuary areas in the other direction. Now, they have come about. Let me just express, I am sure you know you have probably had the announcement today on our casualty figure. There were 168, which is a high casualty figure.

But, it is important that you understand that of that high casualty figure against American forces, it was in-country.

Question. That is not including the Cambodian operation casualties?

Secretary LAIRD. Yes, that does include Cambodia, and that Cambodian operation casualties—I can give the exact figures—I think its 40—

Question. Are you saying that the in-country figures excluding the Cambodian figures went up?

Secretary LAIRD. That is correct. We have a very high in-country casualty rate this week.

Question. Well, let me try to identify some of my confusion, because I am sure I can't claim enough—what were the movements that took place between the 20th and 30th in Cambodia that so dramatically increased the threats to our troops?

Secretary LAIRD. You are talking about different things.

First, I am talking about the threat to our troops in the sanctuary areas. Now, you are talking about the threats to our troops in-country. Now, they are different questions.

Question. I am talking about the 20th to 30th when we didn't have any troops so far as I know in that area.

Secretary LAIRD. The threats to our troops in-country came about by the orders that went out from the North Vietnamese headquarters to bring about a high level of activity in South Vietnam.

Now, that is a different threat than the threat I am talking about in the sanctuary areas. The threat in the sanctuary areas is a

different threat. That particular threat has to do with the number of troops that are stationed and located within the sanctuary areas.

My point in answering the question about the military threat that was involved, the military threat in the sanctuary areas depreciated. But the military threat in-country, not only in Cambodia, it went up, but it also went up in-country, and that is the important point here. I hope that I didn't confuse you by talking about the military threat within the sanctuary areas. What I am talking about there is the number of people that are there to confront American forces as they move into the sanctuary areas.

Question. Who is the military threat in Cambodia—you just said the military threat in Cambodia.

Secretary LAIRD. The military threat as far as Cambodia went up. That was brought about by the increased activity by the North Vietnamese as they moved and faced west—

Question. You mean those couple of towns they talk about?

Secretary LAIRD. I think that, as you know, whether you were there when I testified on this yesterday—that particular military threat is not concerned, as far as I am concerned, in Cambodia and in Laos. I am interested in Cambodia and Laos for only one reason and that is the effect of the operations in Cambodia, and Laos, supply routes and its effect on Vietnam.

Question. Can I ask one question which may be of only historic significance at this point? How did 30,000 to 40,000 in three months become 120,000 in a year? Can you play back that process a little bit for us? The impression some of us had was that when the President left for Hawaii, in that general period, the end of that week, the 17th to 18th of April, there was a general feeling that this was going to be a three or four-month package involving 40,000 men or so.

After he went up to CINCPAC and came back and announced his decision out west, it became a one-year time frame and there were a larger number of people involved. What were the considerations there and what was the process by which the thing changed?

Secretary LAIRD. The 284 figure which was used by the President is the figure at the end of the fifth increment that you probably—and what he did was combine the fourth and fifth increments as far as troop reduction is concerned and he carried the program through which which was either, the 7th or the end of April or the first of May.

Question. But he eliminated the interim deadline too by combining the two increments.

Secretary LAIRD. What he did was he took himself out of the business of having to meet a deadline every three or four months and turned it over to the Department of Defense.

Question. You still regard that as the interim deadline, at the end of the fourth increment as being a deadline which has to be met since it was turned over to the Department of Defense?

Secretary LAIRD. We have to meet it because we have these projections in our budget, gentlemen, and we can't go up for a supplemental appropriations bill and our budget is based on these planning figures. I had not wanted to go to the Congress and tell them what the planning figures were, but the President has made a determination to announce them, and these are the planning figures that are in the budget, right to the numbers—right on the nose—these are our planning figures.

Question. What was McCain's input on the Cambodian operation?

Secretary LAIRD. On the troop withdrawal, he wanted the delay. He joined with General Abrams and wanted no announcement.

On the Cambodian operation, he supported the plans which were developed by General Abrams with a few modifications.

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Question. I had the impression—it may be totally erroneous, that McCain was a pretty strong lever on the Cambodian thing. What was the degree of McCain's influence on the Cambodian decision?

Secretary LAIRD. He certainly supported it, there's no question about that. The briefing which he presented to the President—I had the briefing in advance, of course. The plan that was presented was the plan that had been presented to the National Security Council, and he briefed the President on it.

I think a major portion of his briefing many of you may have had. It has to do with a run through of Southeast Asia—I am sure you had been in his office and he—but I don't go over the briefings that are given to the President.

Question. You are talking about the briefing before April 20th now?

Secretary LAIRD. He asked me about the briefing Admiral McCain gave to the President of the United States at breakfast, in Honolulu, at the time the President went out to welcome the astronauts and he had breakfast with—spent an hour with Admiral McCain. They had a breakfast and he wanted to know whether that briefing had any effect upon the decision.

Question. And you are suggesting that the briefing was relatively routine?

Secretary LAIRD. The plan as presented by General Abrams and modified by discussions that we had had here, but that plan had been put together, you know, it had not been approved in the operations until Monday night or Tuesday morning of the weeks the President—but the plan had all been put together.

Question. But he had gotten it before he got it from McCain or is that the first time that he had seen it?

Secretary LAIRD. I had given him the plan, the plan has been transmitted to him.

Question. Last week?

Secretary LAIRD. Well, before that.

Question. The question—

Secretary LAIRD. But it had not been approved.

Question. How concerned are you on the divisiveness on the home front?

Secretary LAIRD. I am very concerned about it and that's why we have been making every effort not only to live with our budget, but to cut our budget, so that we can make available to other priorities within our Government resources. We have, I think, done very well on this. We have gone from 44 percent of the budget to 34 percent. We have gone from 8.7 percent of the Gross National Product down to 7 percent. I am concerned about the Selective Service Act. Last year they said we couldn't get it changed, we have gotten it changed. We have the random selection and during the months of March and April, the first two months that it has been used, we are back taking youngest first. The system is working.

Question. You anticipate—

Secretary LAIRD. We are also trying to make the changes as far as making the draft a more fair and equitable means of taking young people into the service. I am familiar with these other priorities that we have to face up to and that is why—

Question. I am not talking about this, sir, I am talking about the backlash to this Cambodian divisiveness, had you anticipated that?

Secretary LAIRD. I think I have answered that. I felt that there would be, it had to be considered. It was one of the considerations which I presented. As I said earlier this morning, I anticipated difficulty in that area, difficulty as far as the Congress was concerned, and this was taken into account during the decision-making process. It was taken into account by the President of the United States. There is one thing—and I don't want to be repetitious, but I did not anticipate the Kent University killings, I did not.

Question. Well, do you attribute to the Kent situation what might be called guerrilla warfare on the colleges in this country?

Secretary LAIRD. I think that, as well as some other things did escalate that type of activity. There's no question about that in my mind. It did have an effect.

Question. Do you have under consideration any scheme under which you would send no draftees to Vietnam?

Secretary LAIRD. I want this understood that such a program is a possibility when you get down to 200,000 to 240,000 and our studies show that it is a possibility in that area. What I am trying to do as Secretary of Defense is get all draft calls down to zero. Our primary goal is to get draft calls reduced to the zero level.

The problem is that if you go out and say you are going to have an all-volunteer force in Vietnam when we get to 240,000 or something like that, at that particular time you have a tremendous changeover because there would be a lot of draftees that would still be in your service and still there. So, you would have well over 70 percent of the people at that time.

Now, you could phase in the volunteer force, but I don't want to give the people the impression that you can just change it over night, because you're going to have quite a few draftees that are still in Vietnam even in your support force—in security force, your air support and in your logistics support.

So, this is something that we can move towards, but I don't want to say it will be all volunteer when we get between 200,000 and 240,000 because you still have draftees there. You see, we've got this short rotation, this is one of the problems. Last night I had dinner with Charlie Goodell and I told him that I watched a little bit of his TV performance, and I thought that one of the things that bothered me the most about it was the manner in which he handled the fact that we are putting men into Vietnam and not explaining—I just believe that it really destroys your credibility when you don't indicate that it's because of the short location period that we have to rotate people. Even if we come down to the figure sooner than the President anticipated in his announcement, you're still going to have an input, because we don't allow people to serve there for more than 12 months. The impression that we are putting thousands of people into Vietnam this month just is not an accurate portrayal of what's going on over there. We do put thousands in a week, but it's because of this rotation. Well, that is—

Question. Mr. Secretary, to what degree, if any, were we motivated in Cambodia by a desire, for military reasons perhaps, to support the anti-Sihanouk Government?

Secretary LAIRD. As far as I am concerned, I was not motivated in my recommendation.

Question. It may be military reasons that this would be—

Secretary LAIRD. Because I was motivated on the basis of the Vietnamization program, making further reductions in American forces a possibility and the reduction of casualties as far as Americans are concerned in the future.

I don't believe our Government has a commitment to Cambodia. Our commitment is to our own forces and our commitment is to see that the objective we've set out in Vietnam is achieved, and that's where I put it.

Question. What would you recommend if the communists appear to be about to overthrow Lon Nol Government and replace it with the one that is out?

Secretary LAIRD. I have made my position very clear on that as far as our operations are concerned, even applies to Laos too. This is my opinion and I would still recommend the interdiction of supplies and personnel. As far as our country is concerned even if we're asked to stop bombing the Ho Chi Minh Trail, I would recommend that we con-

tinue to bomb the Ho Chi Minh Trail, and the interdiction of supplies as long as it's in the protection of the Americans.

That's where I would limit it.

If we were asked to stop that kind of activity, either in Laos or Cambodia, I am talking as the Secretary of Defense, this is a decision that would be made by the President of the United States. I'm telling you what my recommendations would be and that's all I can tell you.

There has been no decision made. You don't make a decision on the basis of some iffy question like that, but I didn't want to hedge on what my recommendations would be.

Question. On the question of limits, has the Cambodian operation changed the character of limited war? It used to be pretty much a step-by-step business with pretty tight limits on what we could and could not do. As the President said, he made a massive step. What change do you foresee in the character of limited war as a result of this?

Secretary LAIRD. Well, of course, looking at this from the standpoint of the Secretary of Defense, I believe that the sanctuary problem, the occupied sanctuary problem is something that's existed as far as limited warfare is concerned for a long period of time and I don't look at this operation any differently than that which we have carried on for a good many years on the Ho Chi Minh Trail.

We have problems as far as limited warfare is concerned, but the sanctuary problem whether it applies to the United States or whether it applies to Israel or whether it applies to anyone else is a problem that from a military standpoint, and the defense planners standpoint, I think you have to take into consideration if you are going to commit Americans to that kind of limited warfare you have to give them protection.

Question. You define the sanctuary problem strictly then as a part of a country which is occupied—

Secretary LAIRD. By the enemy.

Question. By a force of another country which is the enemy?

Secretary LAIRD. Yes, that is correct. So that it wouldn't—I could get into that argument . . . (Note: Tape is blank.) But similar situation does exist.

Question. In talking about the Mideast, Mr. Secretary, is it your philosophy as Secretary of—

Secretary LAIRD. Gentlemen, I have to be at the White House at 9 o'clock. I don't mean to hedge on any of your questions, but I am running a little late.

Dan, you are supposed to get me out of here. [Laughter.]

Question. One more question on that sanctuary business, Mr. Secretary.

Secretary LAIRD. Really, I should be going.

Question. Thank you very much.

Mr. CHURCH. Mr. President, I commend the able Senator from Tennessee for placing these insertions in the RECORD. As one who was present at the committee hearing, I add my corroboration to the recollection of the distinguished Senator from Tennessee. The committee was in no way advised of the impending Cambodian operation.

From what the Senator has said, others were advised—others who were not even part of the U.S. Government.

This exemplifies what many of us in this body have been saying, the Senate is often the last to know. We must take action here that will rectify this situation, and restore the Senate to the role the Constitution intends for it to play. We can do that only if we reassert our own authority. This is, in part, what we

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seek to do through the adoption of the Cooper-Church amendment.

Mr. GORE. I thank the Senator. I should like to add emphasis to his remark that the Founding Fathers provided that the elected representatives of the people should have a responsible part in the making of such decisions as herein referred to.

This letter, if correct, indicates that the decision was being discussed with sundry private citizens while the information with respect to it was being withheld from the Senate by no less a personage than the Secretary of State himself.

This is a shocking situation. It is a subject to which the Congress and the country must direct their most serious attention.

Mr. CHURCH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

Mr. HOLLAND. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I am happy to yield to the Senator from Florida.

Mr. HOLLAND. I understand, from reading the amendment now proposed to section 12 of the pending measure, that the distinguished Senator proposes to limit the rather broad provisions of section 12, as appearing in the original bill, so that they will now apply only to funds appropriated for foreign aid or for the furnishing of arms.

Mr. CHURCH. The Senator is correct.

Mr. HOLLAND. And not to funds covered by any other appropriation bill.

Mr. CHURCH. Yes.

Mr. HOLLAND. The substance of this will mean that funds included in a foreign aid appropriation bill, or a bill providing for the furnishing of arms to other nations, must have been authorized prior to the appropriation or at the time of appropriation in order to become an actual appropriation, extendable out of U.S. funds?

Mr. CHURCH. The Senator's interpretation of the amendment is entirely accurate. Judging from previous colloquy, we have had on the subject, it is my understanding that the version now pending has the approval of the Senator from Florida who, of course, is a ranking member of the Senate Appropriations Committee.

Mr. HOLLAND. Mr. President, I thank the Senator. The Senator from Idaho is correct in what he has just stated. It is my feeling that in connection with appropriations for foreign aid and for the furnishing of arms to other nations, we should be peculiarly careful, and I find no objection to limiting those appropriations alone to matters that have been previously authorized.

There is only one additional point I wish to explore, and that I think we covered in our earlier colloquy: I want to be very sure that if there were any items covered in the foreign aid appropriations bill of last year which have not yet been obligated or expended, they will not be affected by this provision as it is proposed to be amended by the current amendment.

Mr. CHURCH. That is my understanding. The current amendment is prospective. It does not reach back to business previously completed by Congress.

Mr. HOLLAND. I so understand it; and yet I am a little disturbed by the wording of section 12, which begins as follows:

Notwithstanding any other provision of law enacted before the date of enactment of this section.

I simply wanted the record to be completely clear that notwithstanding the meaning of those words, the distinguished Senator from Idaho and those who stand with him from the Committee on Foreign Relations, in insisting upon this amendment, which is completely in line with their jurisdiction, have no intention whatever to affect appropriations made last year under the foreign aid appropriation bill of 1969.

Mr. CHURCH. We have no such intent. I assure the Senator on that score. If there is any doubt about this, the legislative history we have made on the Senate floor should clear it up.

Mr. HOLLAND. I thank the Senator. I have already stated in a previous colloquy what the Senator well knows to be the fact, that this legislation will have to be approved at the other end of the Capitol; but I do think appropriations in this particular field should have peculiar care, peculiar caution, and that subjecting them to the absolute condition that they must have previous authorization does provide that peculiar care and caution which I think is appropriate.

Mr. CHURCH. I thank the Senator, and I fully agree with his observation.

Mr. HOLLAND. I see the Senator from North Dakota in the Chamber also. He is the ranking minority member of the Appropriations Committee, as well as the committee which deals with foreign aid and with arms sales to other nations; and I should be greatly interested to hear any comment he cares to make upon it.

Mr. CHURCH. I yield to the Senator from North Dakota.

Mr. YOUNG of North Dakota. Mr. President, after listening to the colloquy which has taken place between the distinguished Senator from Florida and the distinguished Senator from Idaho, this amendment takes care of the objections I raised on this floor a few days ago.

Mr. CHURCH. I am happy that the Senator has no objection. We can proceed, then, with a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Does the Senator from Idaho still have the floor?

The PRESIDING OFFICER (Mr. GRAVEL). No; the Senator from Idaho gave up the floor. Does the Senator from Texas wish the floor?

Mr. CHURCH. Mr. President, I had not intended to yield the floor.

Mr. TOWER. I wish to have the floor before the question is put before the Senate.

The PRESIDING OFFICER. When the question was put, the Senator from Idaho lost the floor. Does the Senator from Texas wish the floor?

Mr. TOWER. Mr. President, I intend to proceed for some minutes. It may run to an hour, and conceivably longer than that. Therefore, I would be happy to yield to any of my colleagues who might have some comment on this particular amendment.

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

Mr. TOWER. I yield.

Mr. HOLLAND. If the Senator does oppose this amendment, I shall of course, stay here; but I have conferees in my office. If the Senator has no opposition to this amendment, I would hope he would permit its passage.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CHURCH. Mr. President, I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendments beginning on page 9, line 1.

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. HOLLAND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC OPINION POLLS: THE PRESIDENT FLUNKS

Mr. CHURCH. Mr. President, some Senators have argued, in the course of this debate, that the Senate should take no action of any kind, inasmuch as recent polls have shown the President commanding a better than 50 percent standing in public opinion in the wake of the American invasion of Cambodia. These polls are widely used to bolster the argument that a majority of the American people support the President's Cambodian action.

What these arguments fail to take into account, however, is the phenomenon known to public opinion analysts as the "rallying to the cause" factor in determining the depth of public opinion.

I have here a paper that has just been prepared by Prof. Richard A. Brody, of Stanford University, a respected analyst of public opinion, concerning the May 3 Gallup poll showing 41 percent of the public "approving of the way President Nixon is handling the Cambodian situation." It is interesting that this is the same percentage the President enjoyed in March on his handling of the Vietnam situation.

Professor Brody has come to the conclusion that contrary to the President commanding a favorable majority from the American public, this poll "actually indicates opposition and not support."

The professor points out that public opinion favoring the President "climbs sharply when he takes action—any ac-

tion, it seems; if the action is a dramatic one, the rise in public approval is sharper yet."

Some examples well illustrate this fact. Public opinion favoring President Truman rose 11 points after American entry into the Korean conflict; President Kennedy enjoyed a 10 percent rise in popularity at the time of the Cuban Missile Crisis in 1962, and—as the professor notes:

Even the disastrous Bay of Pigs invasion was followed by a rallying to the cause; approval of President Kennedy moved from 72 percent before the action to 82 percent after it.

In the final analysis, Professor Brody states:

The question of approval of President Nixon's handling of the Cambodian situation is thus a test of the "rallying to his cause"; President Nixon flunked that test! . . . In other words, the tragically dramatic move into Cambodia has not occasioned a rallying of the American people to Mr. Nixon's cause.

Mr. President, I commend Professor Brody's paper to the Senate and ask unanimous consent that it be printed in the RECORD.

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

THE SILENT MAJORITY STANDS IN OPPOSITION TO THE INDOCHINA WAR

(By Richard A. Brody)

The Gallup Poll showing more than fifty percent approving of the way President Nixon is handling the Cambodian situation actually indicates opposition and not support. In the face of this report, how can one claim that the "silent majority" opposes the war in Indochina?

Over the years public opinion analysts have identified a phenomenon called "rallying to the cause"; public approval of the President climbs sharply when he takes action (any action, it seems); if the action is a dramatic one, the rise in public approval is sharper yet.

Some examples: After the passage of the Truman Doctrine, public approval of President Truman rose from forty-nine percent to sixty percent; our entry into the Korean War was accompanied by an eleven percent rise in approval of Truman; the Cuban Missile Crisis was followed by a ten percent growth in approval. Even the disastrous Bay of Pigs invasion was followed by a rallying to the cause; approval of President Kennedy moved from seventy-two percent before the action to eighty-two percent after it.

The question of approval of President Nixon's handling of the Cambodian situation is thus a test of the "rallying to his cause"; President Nixon flunked that test! In March, on the question of approval of his handling of the situation in Vietnam, fifty-one percent approved, in April, forty-eight percent approved and forty-one percent disapproved; neither of these polls shows a different distribution than the Gallup poll following his action. In other words, the tragically dramatic move into Cambodia has not occasioned a rallying of the American people to Mr. Nixon's cause!

If we look at answers to other questions Gallup asked the public, we can come to understand why this dramatic failure to rally to the President has taken place: In the first place the public is pessimistic about the outcome. Fifty-five percent think a major involvement in Cambodia is unavoidable—they disagree with the President on this score. Rallying to the cause in the past has been accompanied by optimism or at least a hope-

fulness that "maybe it'll work"—that optimism is now lacking in the public; less than a third believe that we can avoid a major involvement in Cambodia. Beyond pessimism, the public disapproves of the major facet of the Cambodian escalation. Six Americans in ten disapprove of "sending troops to help Cambodia" and only twenty-eight percent believe we should.

Pessimism was reinforced by the flow of bad news from Vietnam was central in the massive growth in popular dissatisfaction with the Johnson administration. The pessimism over the Cambodian invasion is the prelude to a withdrawal of public support for the Nixon administration. And it should be remembered that Mr. Nixon began with a substantially smaller stock of public support than did President Johnson.

If the public rejects the sending of troops to Cambodia and thinks an undesired major involvement is likely, why do so many people still approve of Nixon's handling of the war? The answer can only be that a majority doesn't approve of the handling of the war but rather of the President as a symbol. We can come to understand this if we reflect on public opinion during the Johnson administration. At the ebb of public support of President Johnson, when substantial majorities disagreed with the main features of his Vietnam policy, a third of the American people still were willing to say they approved of his handling of the war. For President Johnson this situation contrasts sharply with the situation in 1968 when the public approved not only of his handling of the war but of the details of the policy lines he was following. President Nixon's support seems to be structured more like that of Johnson at the ebb than Johnson in 1968.

The symbol of the Presidency can only carry a President so long and Mr. Nixon's string is running out. The silent majority is not with the President in his Cambodian experiment.

MR. TOWER. Mr. President, I would like to discuss two somewhat interrelated arguments which have been put forth as criticisms of the President and the administration and those who support the U.S. effort in Southeast Asia.

The first of these arguments avers that the government now in South Vietnam is so oppressive and indifferent to the needs of the people of South Vietnam that it is really no better than that of Hanoi. The argument is extended, somewhat illogically, to say that unless the United States undermines the South Vietnamese Government by negotiating it away at the bargaining table, this country cannot pretend to be assisting the people of South Vietnam.

Let us briefly compare the Government of South Vietnam with that in Hanoi and see if there is, in fact, "not a dime's worth of difference."

First, there are 25 newspapers in Saigon, many of which often disagree strongly with the Thieu-Ky government. There is one newspaper in Hanoi, and I defy anyone to show me an instance in which it has opposed the Communist government there.

There are 60 political parties in South Vietnam, many of them powerful and active enough to influence and oppose the Thieu-Ky government. In North Vietnam there is only one political party, the Communist Party.

In South Vietnam there is a strong union movement with some 500,000 members. In North Vietnam there is, of course, no union. I might add here that the president of the South Vietnamese

union association, Phan Quoc Buu, is no puppet of the Saigon government. He and his newspaper have bitterly opposed it on occasion and even risked imprisonment to do so. And yet, the union movement is alive and thriving in South Vietnam.

Finally, I think it is important to note that the Thieu-Ky government has re-instituted the village government system in rural South Vietnam. Furthermore, the central government is rearming the villages through the village militia.

This is particularly noteworthy. No government is universally unpopular and oppressive as the Thieu-Ky government is accused of being by its detractors, would dare place weapons in the hands of the people. And yet, the Saigon government has actively pursued the arming of village militias. These militias have been effective defenders against Vietcong and North Vietnamese troops. They have used their weapons against the real oppressors, the Communists—not the Thieu-Ky government. This is tremendously significant. Is there a Communist country in the world that will allow its people to be armed? There is not—not one in the world.

Finally, I would remind those who are completely critical of the South Vietnamese Government of a simple historical fact.

During the 100 days in 1954 when the border between North and South Vietnam was open, over a million Vietnamese people fled from the North to the South. One million individuals, who "voted with their feet" against the Communist takeover of North Vietnam and the dictatorship of Uncle Ho, fled to safety in the South. I am unaware of any mass migration of dissatisfied South Vietnamese citizens to North Vietnam. Apparently, the people in the South are not as convinced as some war critics seem to think that they would profit from Communist domination.

I am reminded of the time prior to World War II when Nazi Germany closed its borders, on the assumption that the oppressed Swiss people might flee in too great numbers into free Germany.

Parenthetically, I would note that the border was closed by North Vietnam after 100 days in 1954 in order to stem the flow of Vietnamese from North to South. This action was taken even though the North Vietnamese had signed the Geneva agreement which called for the border to remain open for 300 days. For some reason, any alleged breach of the Geneva agreement by the United States or its allies is considered to be immoral and unconscionable.

But, for some reason, those who oppose our efforts in South Vietnam today seem to think that the breach of the Geneva Accords by the North Vietnamese is a matter to be overlooked.

Those who accuse the United States of violating the Geneva agreement—an agreement which it never signed—might well ask just what we would gain from following an agreement continually broken by the North Vietnamese.

Mr. President, I do not hold the South Vietnamese Government out as a perfect

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new developments there warrant our immediate and continued attention.

Mr. President, I ask unanimous consent that the article published in the New York Times of Thursday, May 14, 1970, to which I have referred be printed at this point in the RECORD, and I thank the courtesy of the Senator from South Dakota.

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

**100 RUSSIAN PILOTS REPORTED IN EGYPT
FLYING INTERCEPTORS**
(By William Beecher)

WASHINGTON, May 13.—American and other Western intelligence sources report that about 100 Soviet pilots have been sent to the United Arab Republic in recent weeks to man three or four squadrons of jet interceptors.

The sources say that this is in addition to 70 to 80 Russian pilots who have long been training Egyptian fliers in Egypt. The new complement of pilots is reported to be part of a military advisory force that now numbers 8,000 to 10,000 men.

Military and diplomatic sources have also provided the following reports on new Soviet activity in Egypt:

Approximately 100 pilots and their maintenance crews were transferred to Egypt from assignments with three or four operational squadrons in Russia. Some of the latest model MIG-21's were flown in as well, and other aircraft were borrowed from the Egyptian Air Force.

The 8,000 to 10,000 Soviet military advisers in Egypt, up from a total estimated at 2,500 to 4,000 men before the build-up, are said to include entire air defense missile and anti-aircraft artillery crews, maintenance men and communications specialists.

Twenty SAM-3 air defense missile sites under construction would contain 160 missile launchers when they are completed. Some estimates suggest that for a really effective defense of military bases in the Alexandria, Cairo and Aswan Dam areas, the Russians might want to expand to 40 SAM-3 sites.

One unconfirmed report is that the Russians have moved in an armored brigade of troops to provide ground defenses against possible Israeli commando raids on the missile sites.

The Russian pilots are believed to be operating from a number of airfields west of the Nile River, from Alexandria to well south of Cairo. They often scramble into the air when radar shows Israeli planes are heading toward the Suez Canal, which is only three to five minutes flying time from Cairo.

ISRAELI-SOVIET CLASH FEARED

To date no direct engagement between Israeli and Soviet jets has been reported.

The principal concern of many Nixon administration officials is whether the Russians will decide to take over primary responsibility for air defense of all Egypt, including the west bank of the Suez Canal. If this happens, Defense and State Department officials fear Israeli jets will be sure to clash with Soviet jets.

For the time being, Israel is forgoing deep raids into the Cairo-Alexandria region to avoid a direct confrontation with Soviet pilots and anti-aircraft missile crews.

INFORMATION SKETCHY

American and Western intelligence sources concede that information on the precise shape of the Soviet build-up in Egypt is sketchy and in some details open to dispute.

For example, Israeli officials recently provided the United States with tape recordings of intercepted radio transmissions that included 200 excerpts attributed to Russian pilots.

American sources say these recordings included duplications and do not demonstrate that there are now more than 200 Soviet pilots flying missions in Egypt. Presumably much of the independent United States information on the presence of Soviet pilots also comes from intercepted communications.

American analysts believe the Russians decided to deploy some of their own air defense ground and air crews out of fear that continued Israeli air raids deep into Egypt could undermine President Gamal Abdel Nasser.

The Russians are also said to have been angered by an Israeli air strike several weeks ago near Helwan, nine miles south of Cairo, in which some Russian military advisers were reported to have been killed and others wounded. This incident has not been publicly mentioned by the Russians, the Egyptians or the Israelis.

Meanwhile, the Nixon Administration is considering whether to provide additional F-4 and A-4 fighter-bombers to Israel.

Abba Eban, the Israel Foreign Minister, is coming to Washington next week, apparently to renew his country's plea for arms and economic assistance. Israel is believed to be seeking 25 to 50 F-4 Phantom jets and 100 A-4 Skyhawks.

ORDER OF BUSINESS

Mr. McGOVERN. Mr. President, I ask unanimous consent that I be recognized at this time for 8 minutes.

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

SENATOR McGOVERN ADVISES LEGION AND VFW COMMANDERS TO QUIT PLAYING POLITICS

Mr. McGOVERN. Mr. President, I want first of all to have printed in the RECORD two news releases—the first, a joint statement issued by the commander of the American Legion and the commander of the Veterans of Foreign Wars on yesterday after, according to press reports, they were escorted to the Senate Press Gallery by the Republican floor leader, the distinguished Senator from Pennsylvania (Mr. SCOTT).

The second statement was issued earlier on February 28 at Jefferson City, Mo., by the commander of the VFW, Mr. Gallagher.

I urge all Members of Congress who have not seen these statements to reflect on them carefully and then consider that they were actually made in the name of veterans who have risked their lives for this country. I frankly am shocked and appalled that two Americans who claim to speak for veterans could utter such un-American statements. So before I comment further on the statements, I ask unanimous consent that they be printed at this point in the RECORD.

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

JOINT STATEMENT BY AMERICAN LEGION NATIONAL COMMANDER J. MILTON PATRICK AND VETERANS OF FOREIGN WARS NATIONAL COMMANDER RAY GALLAGHER

WASHINGTON, D.C. In the name of the more than six million members of the American Legion, the Veterans of Foreign Wars, and their Auxiliaries, we condemn the actions of those Senators who would tie the President's hands by withholding funds from his efforts to bring the war in Southeast Asia

to an honorable conclusion with safety for our troops assured.

The proposals of these individuals amount to a declaration of surrender to communist forces, and constitute a stab in the back for our boys in combat.

We would remind these Senators that they are directly responsible for the presence of United States forces in Vietnam. They owe these troops and their country no less than full support for the President's plan—so far successful beyond the imagination—to bring the conflict to an honorable conclusion with complete safety for our troops.

We specifically criticize Senators Church, Cooper, Fulbright, McGovern, and others who follow their actions as prime movers of legislation which would assure the humiliation of the United States and pose a direct threat to the safety of our forces disengaging from the Vietnam Conflict.

We are urging the Congress and all Americans to unite and support our President and our forces in Southeast Asia.

JEFFERSON CITY, Mo.—The national commander of the Veterans of Foreign Wars said Saturday the United States might have to resort to a "police state" to contain the militant left wing.

Raymond A. Gallagher, a Redfield, S. Dak., lawyer, told newsmen that America's is a Government by majority and warned of the dangers of the militant minority.

Gallagher was in Jefferson City to speak before State VFW officials.

"Sometimes, the minority must yield to the majority," Gallagher said. "So far they have not. Instead, they go out into the streets and demonstrate, destroying buildings, even people.

"If the minority continues to refuse to yield, the only alternative is some type of power structure to force them," Gallagher said. "I hate to see this country develop into some type of police state, but, to have security for our people, it may be necessary."

Of the defendants in the "Chicago Seven" trial, Gallagher said, "... you can't have a mockery like we had in Chicago because they are dedicated to destroying the system. They aren't concerned with the courts unless the courts rule with them. But when the court or Government rules against them, they rebel violently. This has to be stopped."

"This is still a major form of Government," he said, "and the majority should be in control—not the minority." He said those on the militant left have vowed to continue their tactics "until they make the majority conform to the minority. This isn't the American way of life."

Mr. McGOVERN. Mr. President, I want to admonish Mr. Martin Patrick, the commander of the Legion, and Mr. Ray Gallagher, the commander of the VFW, to quit playing politics with the veterans organizations and betraying the best interests of U.S. veterans.

These fellows claim to be speaking for more than 6 million members of the American Legion and the VFW. I have been a member of both of those organizations for 25 years, and neither Patrick nor Gallagher speaks for me. Nor do they speak for large numbers of combat GI's who have communicated their views to me and other Senators.

I regard the views of these self-styled foreign policy experts as nonsense that no reasonable person would give a second thought. Let them extol the virtues of the Nixon foreign policy, if they wish. Let them distribute their political propaganda in the Senate Press Gallery escorted by the Republican floor leader, if they wish. But they ought to take off

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We are solemnly obligated, Mr. President, legally, morally, and in the name of honor and decency, to stand by these men even as they stood by America.

We must not forget them, we cannot abandon them, our principles and our tradition forbid us to forsake them.

Mr. President, I have offered an amendment to the pending legislation, which would stay and enjoin any action under the terms of the legislation until the President of the United States has successfully arranged and obtained the release and safe return to their families and to their country of every American prisoner of war presently held by the Vietnamese Communists.

America—with President Nixon in the forefront—prays and strives for peace. Americans long for a cessation of fighting and dying—of separation and hardship.

This truly great Nation—with her record of unparalleled generosity to all mankind—would see Woodrow Wilson's dream become reality—"not a balance of power, but a community of power—not organized rivalries, but an organized common peace."

However, Mr. President, we must deal—not with noble dreams but with harsh facts created by the Communist masters in Hanoi, Peking, and Moscow.

I submit that President Nixon—confronted, as he is, with the cold calculations, callous aggression, and endless maneuvering of the latter-day oriental khans—is pursuing—with all his strength—our great goals of bringing peace to the Far East and bringing our troops back home.

I hope that Congress will support our Commander in Chief in his desire and his effort to restore and to maintain peace in the Far East, the Middle East, and across the earth.

I believe that the defeat of the pending legislation is in the best interests of the United States. I believe—also—that if this legislation is approved, my amendment must be included in order that we keep faith with those who offered their lives for us—in order that this Nation continue to be recognized around the world as the home of a brave and decent people who will never turn their backs on their own.

I assert—Mr. President—that when the American servicemen who have borne the battle in Vietnam with uncommon valor and dedication return to our shores, that they all return together—the soldier, the sailor, the airman, and the prisoner. All who have served and suffered side by side have earned this right and deserve no less.

AMENDMENT NO. 626

Mr. DOMINICK. Mr. President (Mr. HUGHES), I am going to be quite brief because, as I understand it, we are operating under morning business rules.

I am concerned over this matter, and so are many other people, as to the reaction which has occurred to the Cambodian episode.

For many years, I have been saying that the action of Presidents Kennedy and Johnson in injecting ground troops into Vietnam was a fundamental mistake, that I hoped we could get them out

as soon as possible, and that we have to deal with everything which has been imposed upon us by the action of the two prior Presidents.

As a result, I was delighted to have President Nixon turn that around and begin to withdraw troops and promise to withdraw more.

The action now going on, he has stated, will be completed by July 1, that American forces will be withdrawn from Cambodia and, at that time, we can continue with the program of withdrawing an additional 150,000 troops from South Vietnam.

Accordingly, Mr. President, I send to the desk at this time an amendment, which I would ask be printed in the RECORD at the conclusion of my remarks, and that it be printed and lie on the table.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, the amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD at the conclusion of the remarks of the Senator from Colorado.

Mr. DOMINICK. Mr. President, the amendment specifically backs up what the President is saying. It provides that after July 1 we will not authorize the use of funds for the introduction or the retention of American forces in Cambodia, except where it may be necessary to protect the lives of our men in South Vietnam.

The amendment would act prospectively instead of retroactively. It would follow along the assurances we have received from the President. It would retain some jurisdiction in Congress over what future action may be.

In my opinion, the amendment will neither hamper the President in preserving the lives of those ordered into combat nor will it do anything to hinder the increase in the Vietnamization program which the President has already announced.

As a result, it is my hope that my amendment can be brought up as, perhaps, a substitute for the amendment reported from the Committee on Foreign Relations.

At the appropriate time, I intend to bring up the amendment and have it debated.

The text of the amendment is as follows:

AMENDMENT NO. 626

On page 4, line 24, strike out section 7, and insert in lieu thereof the following:

"SEC. 7. The Foreign Military Sales Act is further amended by adding at the end thereof the following new section:

"PROHIBITING USE OF AMERICAN GROUND COMBAT TROOPS IN CAMBODIA

"SEC. 47. In accord with the expressed statements of the President of the United States, none of the funds authorized by this or other Act shall be used after July 1, 1970, to finance the introduction or retention of American ground combat troops into Cambodia without the prior consent of the Congress, except to the extent that such is required, as determined by the President and reported promptly to the Congress, to protect the lives of American troops remaining within South Vietnam."

Mr. PEARSON. Mr. President, in this morning's New York Times, there is an article published, under a Washington

dateline, indicating that American and western intelligence sources report 100 Soviet pilots have been sent to the UAR, so that it is part of a military advisory force now numbering 8,000 to 10,000 men.

Mr. President, the widening conflict in Southeast Asia has obscured, for the most part, a dangerous escalation of force and intervention in the Middle East.

The Arab-Israel conflict and the cold war confrontation between the great powers represents the greatest danger to world peace because of the possible involvement of either Soviet or U.S. forces.

The participation of Soviet pilots as a part of the Egyptian defensive air command has not only had a serious effect on the balance of forces there, but could very well provide the spark which could ignite an ever consuming and ever widening war of global proportions.

Mr. President, while Mr. Nixon is being criticized for a move into Cambodia, it seems to me only fair to recall his restraint and caution in denying last March the Israeli request for additional phantoms and skyhawks. The President's decision to deny this request sought to reduce the dangers and the tensions in the Middle East. Furthermore, Mr. President, the administration's decision was made not only in the face of domestic and political pressure, but against the background of huge military aircraft purchases by the Arab Nations. These new inventory of military jets were not as dangerous as their numbers implied, we understood, because the Arab Nations, particularly the United Arab Republic, lacked trained pilots and competent personnel. Now that limitation has apparently been removed.

President Nixon has ordered a full review of the strategic balance in the Middle East. The State Department is asking Moscow for an explanation of its purpose and intent. But, in the meantime, the Congress should be prepared for the prospect that additional military aid to Israel is essential if a balance of force is to be maintained.

I suggest, Mr. President, that this Government should seek to provide this assistance if found to be necessary on an international and multilateral basis. Indeed the call from Israel was for international assistance.

Mr. President, the Soviet Union may not want war in the Middle East, but they also do not want peace. The Kremlin's policy is not aimed at returning peace and stability in that part of the world, but in establishing a strong Soviet sphere of influence in the Arab nations—particularly in the United Arab Republic. This policy which has led to direct Soviet intervention in the form of Soviet Mig pilots represents immense dangers. Nasser's threat to President Nixon on May 2; King Hussein's criticism of U.S. policy and his move toward the Soviet Union of May 4; and Prime Minister Meir's vow to fight the Russian pilots if necessary a day or so later are more than verbal eruptions, but are manifestations of a deteriorating condition, as we learn of repeated and stronger attacks across the Suez Canal and the Jordan River.

To repeat, Mr. President, serious as may be the problems in Southeast Asia, circumstances in the Middle East and the

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lected families over a 10-month period. In the New Jersey experiment the Government was merely making temporary grants to a few people. With the enactment of H.R. 16311, we would be establishing a new principle, the principle that everyone has a right to a certain level of income whether he works or not. I believe that once this principle is established, there will be a substantial change in people's attitude toward work.

In my view, the inadequacy of the OEO figures is typical of the administration's efforts in regard to H.R. 16311. I do not have time in this speech to go through the multiple inadequacies of this welfare expansion legislation but I think one point is especially significant.

Over 6 months ago, when the administration was testifying in favor of the family assistance plan before the House Ways and Means Committee, Congresswoman GRIFFITHS asked Secretary Finch to list all the places in the bill where the Secretary is given authority to decide policy and issue regulations and to indicate what the regulations might be in every case. This was an especially important question because there are over 30 delegations of authority in the act. This information was never provided to the Ways and Means Committee.

When the Senate Finance Committee hearings were held over a half a year later, I asked if Secretary Finch could furnish this information. The Secretary indicated that he had been working on some regulations for day care but that he did not have the information which Mrs. GRIFFITHS had requested. He promised to furnish it for the record, but at the time this speech is being made, the material requested has not yet been received by the Senate Finance Committee.

Therefore, it appears that not only does the Secretary not know how he would administer this multibillion-dollar plan, he does not even care to try to determine how he will administer it.

As presently written, the act assures only one thing. It assures that there will be a guaranteed cash benefit level. There is no guarantee of job training and job placement. As a matter of fact, the Secretary indicated that they have not even tried to grapple with the problem of placing welfare recipients in jobs—a key point in administration rhetoric.

If the bill is to have meaning and if it is to be a bill which I can support, there will have to be substantial changes. The delegations of authority will have to be changed to provisions of law. More importantly, there must be some process which will assure that maximum emphasis will be given to job training and job placement.

I commend to the attention of the Senate a bill, S. 3156, the Employment Opportunity Tax Act of 1969, which I introduced last November.

The bill I introduced would provide a 10-percent tax credit to industries which would conduct a job training program. The tax credit would be available only to employers who provide on-the-job training and who keep the employee on the job after he is trained. Another important feature of my bill is a provision for a 10-percent tax credit for employers who hire an individual through the work

incentive program of the Social Security Act. At the time I introduced this bill, I realized that the work incentive program enacted in 1967 had been a dismal failure. Few individuals were enrolled in training programs and even fewer had actually been placed in productive jobs.

In most cases, individuals who are currently on the welfare rolls are not the best employment risks. Therefore, if we are to encourage industry to hire these individuals, we must give tax credit.

During President Nixon's campaign, he urged the adoption of tax incentives as a means of promoting more effective job training. There is no more appropriate place for tax incentives to be considered than in conjunction with the President's family assistance plan.

If the administration is to make good on its rhetoric about workfare rather than welfare, it must secure the adoption of an amendment which will actually place welfare recipients in productive jobs.

It must substitute meaningful legislation for the 30 delegations of authority in H.R. 16311. Only when this is done can the act be characterized as welfare reform rather than welfare expansion.

When the Senate Finance Committee sent the family assistance plan back to the drawing board, I requested that the administration give thorough consideration to my tax incentive approach and that it write meaningful work requirements into the bill.

Press reports have indicated that the administration plans to make very little changes in its program.

Mr. President, I hope that these reports are erroneous. I hope that the administration will reconsider some of the fundamental premises of its plan and that it will give real consideration to my tax incentive approach.

Mr. President, as best I can determine the facts from research by my staff, our Government now has some 19 Federal agencies conducting some 39 different training programs. They are a complete mystic maze, and not even Members of the U.S. Senate can determine how many there are, how effective they are, or whether or not they are producing the desired results.

I know that some of these training programs are doing a good job. In many instances, however, they train individuals for nonexistent jobs. In other instances, they send them off to work camps at vast cost—in excess of \$8,000 a year—and they return without a job, without any increased talent, without any increased education, only to resume going on welfare rolls or walking the streets of our principal urban areas.

If we have a partnership between Government and business, we can train people for jobs then in being; and when they get through training, they will be trained for a particular job. They will be on the payroll. They will become taxpayers rather than beneficiaries of the taxes of working people throughout the country.

I do not believe that the overwhelming majority of American people want to work in order to provide a living for people who choose not to work. That is not the American way. I think the overwhelming majority of the American peo-

ple believe in doing everything they possibly can for those who cannot work. We want to help the aged. We want to help the blind. We want to help the disabled. We want to help the dependent children. But I do not believe that the American people believe that we ought to tax all our citizens, and that those people who choose to work and desire to work should be required to support the individuals who do not want to work.

Therein, I think, is the great weakness of the program that the President has submitted. Should the program not be revised as the Committee on Finance has directed, we will have to do some extensive rewriting on our own initiative. Only if this bill is changed to provide real reform can I support it.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield to the distinguished Senator from North Carolina.

Mr. JORDAN of North Carolina. Mr. President, I commend my distinguished colleague, the Senator from Georgia, for the fine speech he has made and the facts he has brought out.

I am in full accord with the amendment he has submitted with respect to the tax incentive. It is the only sensible approach I know of to the problem of hiring those who do not have jobs. An employer who would hire people to train them would normally hire them in the community where the unemployed live, and he would hire them for a job they would have permanently after learning to run the job.

One of the reasons why employers have not done more of this in the past is that, under the wage and hour laws today, a trainee must be started at the minimum wage scale. The employer carries them along for several months. The trainee probably proves inefficient and nonproductive, and the employer has to let him go, so he has wasted that much money. Therefore, employers are prone not to hire that particular class of people. If an employer has to hire trainees, he hires the most apt trainees, high school graduates, the most intelligent, so that it will cost him the least to train them for a job he wants them to keep. An employer who hires people and trains them at his expense wants to keep those employees, because he has paid for training them.

If there is some tax incentive, as the Senator from Georgia has pointed out, by which the Government would share part of the training cost, the employer would be much more apt to hire people who are less likely to be easily trained over a period of time than he would be to take the brightest ones he could find in the area.

Mr. TALMADGE. I certainly concur with the Senator. The Senator has had broad experience in hiring employees, and I know that he speaks with the voice of wisdom in this field.

No employer is going to employ someone when he thinks the employee's productivity will be less than the cost of hiring him. If we can have a partnership between Government and private business, as the Senator has pointed out, we can have a training program that will work. When the employee gets through training he will have a job; he will al-

ready be working. He will become a taxpayer when his training period is over.

In my own State I visited a number of industries in searching for answers to this problem and I found many programs that were working exceedingly well.

For example, in the Albany area I found people operating sophisticated equipment and making automobile tires. A few years ago they were plowing behind a mule and some of them were unemployed. Their educational skills were very low. Their working skills were low prior to training.

Then I went to the Dublin area and I saw people making furniture that was shipped all over the world. These were people who had come from agricultural areas, who had come from the farms, with limited education.

I went to Augusta, Ga., and I saw people making sophisticated surgical equipment and dressings and things of that type. Just a few months before they had been unemployed or underemployed.

So I know that a training program of this type will work. I have seen the results. I think that is what our Government should do to get people off the welfare rolls, to make productive, useful, and self-respecting citizens of them, so that they can contribute something to society rather than be the beneficiaries of the other taxpayers of America.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield for a question?

Mr. TALMADGE. I am delighted to yield.

Mr. JORDAN of North Carolina. In the Senator's survey of the plants he visited, did he not find that the employers who hired these people hired them for a particular job; that when these people were trained, the employers needed them?

Mr. TALMADGE. Exactly.

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

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

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

Mr. TALMADGE. They first made arrangements with the vocational-technical schools in the community to work with them and help train these individuals. As soon as these individuals were trained in these vocational-technical schools, the employer had a job for them that day. They went to work that day. They are still working. They are taxpayers now. They have some pride in what they are doing. They have self-respect. They have the respect of the community. They are no longer beneficiaries of tax funds, but they are taxpayers themselves.

Mr. JORDAN of North Carolina. The Senator did not find that the company making automobile tires started training people to work in a furniture factory, did he?

Mr. TALMADGE. No.

Mr. JORDAN of North Carolina. Neither did he find the opposite.

Mr. TALMADGE. They taught the

trainee to operate a specific piece of machinery, to do a specific thing.

Mr. JORDAN of North Carolina. And when the person was trained, he had a permanent job.

Mr. TALMADGE. Exactly.

Mr. JORDAN of North Carolina. He became a citizen of that community, and he is happy in that job because he became a part of that institution, whatever it is.

Mr. TALMADGE. The Senator is correct.

Mr. JORDAN of North Carolina. The Senator has delivered a fine and wise speech, and in my opinion his approach is the way out of this problem.

Mr. TALMADGE. I appreciate the remarks of the Senator, and I appreciate his contribution.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. TALMADGE. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, with a 3-minute limitation on statements therein.

Mr. EASTLAND. Mr. President, will the Senator withhold that request?

Mr. TALMADGE. Yes.

Mr. EASTLAND. Mr. President, I ask unanimous consent to speak for 6 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. TALMADGE. Mr. President, I ask unanimous consent that, at the conclusion of the speech of the distinguished Senator from Mississippi (Mr. EASTLAND), there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

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

The Senator from Mississippi is recognized for 6 minutes.

~~THE FOREIGN MILITARY SALES ACT—SUBMISSION OF AMENDMENTS~~

AMENDMENT NO. 625

Mr. EASTLAND. Mr. President, I send to the desk an amendment, and I ask unanimous consent that it be printed and lie on the table.

The PRESIDING OFFICER (Mr. Moss). Without objection, the amendment will be received and printed, and will lie on the table.

The amendment (No. 625) was received and ordered to lie on the table.

Mr. EASTLAND. Mr. President, I oppose the pending legislation for a number of very basic reasons.

My opposition is based on the firm belief that this action comes at the wrong time and is directed toward the wrong President.

This President has already reduced—substantially—the number of Americans engaged in Vietnam and has announced another withdrawal of 150,000 of our G.I's.

Further, the operation he ordered against areas under the complete con-

trol—for an extended period of time—of the Hanoi Communists is aimed directly at the achievement of the goal toward which we strive—the safe disengagement and removal of our fighting forces from Vietnam.

Any first-year student at West Point, Annapolis, or in an ROTC program—provided that some ROTC units survive the vicious attack that has been launched against this concept, which has done so much for our country—any of these students can state, with absolute certainty, that the denial of logistical support to an enemy is the first rule of warfare.

The capture—by American and South Vietnamese troops—of enormous amounts of weapons, ammunition, and other material will cripple Hanoi's capabilities over a wide operational front—furnish time for the orderly development of the Vietnamization program—and—most important of all—contribute to the security of our own forces.

Mr. President, I ask unanimous consent to have printed in the RECORD a tentative list of the equipment which has been captured.

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

Military update of Cambodian operations, May 13, 1970

Latest cumulative data:	
Individual weapons captured...	7,274
Crew-served weapons captured..	1,012
Rice (tons).....	2,390
Rice (man-months).....	105,160
Rocket rounds captured.....	9,025
Mortar rounds captured.....	13,231
Small-arms ammunition captured.....	8,375,925
Land mines captured.....	1,200
Bunkers destroyed.....	3,294
Vehicles destroyed or captured..	171

NOTE.—The above figures are tentative cumulative results as reported by Hq. MACV.

Mr. EASTLAND. Mr. President, this President has stated—publicly and repeatedly—his determination to bring our soldiers and sailors home at the earliest possible date. I am convinced that he is working very hard to attain this end, and I am equally convinced that his foremost concern—as the program moves ahead—is maximum support and safety for every man who wears our uniform and whom this Nation sent to Asia.

Therefore—I repeat—I shall vote against this legislation because it would do what the President is already doing. It comes before us in the wrong administration and at the wrong time in relation to the protection of American forces committed to combat in the region and with regard to the safe withdrawal of these forces.

However, Mr. President, in the event that this legislation is adopted, it is, in my view, the clear duty of the Senate and of this country to remember each of those American boys who are, today, enduring cruel captivity as prisoners of war of the barbarous regime which rules from Hanoi.

These men—who have suffered to the limit of human endurance at the hands of their Communist captors—deserve what they have earned at the hands of the land they fought to defend.

labor camps. In a remarkable political and logistical operation, a Polish army more than 100,000 strong was moved out of the Soviet Union via Iran, Iraq and Israel, to the Italian front which had just been opened up.

It is not commonly realized that, after the British and Americans, the Polish army which General Anders commanded was the third largest army to participate in the war on the Allied side.

The heroism of the Polish army in Italy is a legend which those of us who lived through those difficult times will never forget. In the historic battle of Monte Cassino, where the Germans had held out for many weeks against attacking Allied forces, it was the Polish army which finally seized the castle on top of the mountain after storming up its bloody slopes; and in doing so, they opened the way to Rome for the Allied forces.

General Anders' death is a sad blow to the Polish exile community and to all men who cherish freedom throughout the world.

Mr. BYRD of West Virginia. In recognition of the very great contribution which he made to the Allied cause in World War II, I have today written to the Postmaster General of the United States urging that the Post Office issue a commemorative stamp in honor of Gen. Wladyslaw Anders. I earnestly hope that this proposal will meet with the approval of the Citizens' Stamp Advisory Committee.

SENATOR JAVITS PRAISES NATIONAL TV PRESENTATION ON VIETNAM BY SENATORS GOODELL, HATFIELD, MCGOVERN, CHURCH AND HUGHES

Mr. JAVITS. Mr. President, the compelling and reasoned articulation of the critical need to end the Vietnam war, presented by Senators GOODELL, HATFIELD, MCGOVERN, CHURCH, and HUGHES in their Tuesday night television broadcast to the Nation, was an excellent contribution to the current national debate on U.S. policy in Indochina. As a Senator who has worked closely on many occasions with these same Senators to gain peace in Vietnam, I wish to make clear my strong support for their stated objective of establishing how the Congress can contribute effectively to end the Vietnam war. The question for Senators like myself who agree on the policy objective is whether the amendment sponsored by this group is the best means for the Senate to invoke from the legislative and constitutional standpoints.

It is my hope and expectation that further consultation between the amendment's sponsors and other Senators like myself will lead to a procedure which will make possible the support of a solid majority in the Senate. Senators GOODELL, HATFIELD, MCGOVERN, CHURCH, and HUGHES have rendered an outstanding public service in the cause of peace through their broadcast to the Nation and in submitting their important legislative amendment to the Senate.

CONCLUSION OF FURTHER ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, further morning business is concluded.

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. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time under the Pastore germaneness rule begin running as of now.

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

Mr. STENNIS. Mr. President, I address myself to the pending bill, particularly that part thereof known as the Church-Cooper amendment.

Referring to the area involved in Cambodia where we have crossed over the line to get at the sanctuaries, I requested the Department of Defense this morning to give me the actual figures, down to and including the latest available, with reference to just what had happened there since that part of the battle started, with reference to the capture of supplies, ammunition, and matters that go to make up military equipment, as well as the manpower situation.

About an hour ago the Secretary of Defense sent me this statement, which I shall read for the information of the Senate. I think it has a special place, too, in the Record.

Mr. President, in my opinion, during the few short days that this part of the battle has been going on, which is distinctly and essentially a part of the war in Vietnam, I think it has been relatively highly successful. I read this statement, a summary statement of the activities:

On the basis of current reports of the amounts of enemy supplies and equipment located so far in Cambodia by South Vietnamese and American forces, the weapons alone are sufficient to equip about 20 enemy battalions. More than 7,000 rifles and 1,000 crew served weapons (e.g., mortars and machine guns) have been captured, along with more than 8 million rounds of small arms ammunition, which would have supplied these 20 battalions for upwards of a thousand battalion-size attacks.

Those are enormous figures. Continuing the statement:

Food supplies located so far comprise almost five million pounds of rice, the basic food for Southeast Asia. This rice would have fed the entire enemy force in III and IV Corps in South Vietnam for 5 months.

We know that the III and IV Corps cover a very considerable area in South Vietnam. I wish that this had been given in terms of square miles, but that area is an important area, and a considerable area in square miles.

I quote again:

Twenty-two thousand mortar and rocket rounds have been found. This amount of munitions would have supplied about 3,000 fire attacks in South Vietnam of the same intensity that the enemy has been conducting in recent weeks—about seven rounds per attack.

That refers to the small, quick, rapid mortar and rocket attacks that they have been very successful in. This would have taken very care of 3,000 such attacks.

I continue the quotation:

More than 5,400 enemy have been killed in Cambodia and about 1,400 have been detained. If earlier estimates of about 40,000 enemy troops in Cambodia are correct, this

loss by the enemy means that about 17 percent of his Cambodian forces have been destroyed.

Losses by the enemy thus far in terms of men, munitions, and supplies will indeed have a significant effect on his future operations.

That is the end of the statement.

Mr. President, that means that, almost within throwing distance of the line between South Vietnam and Cambodia, and really a part of the battlefield that our men are fighting on, and have been, all these arms and munitions and battle supplies have been found which could have been used and would have been used in the course of months. Certainly they would have been used against our men and the troops of South Vietnam.

Call it what we will about where the boundary line is, or what strict construction of the Constitution of the United States requires, this is a very significant thing, highly helpful to our position, enabling the saving of a great number of lives of our men and those of the allies. As a matter of fact, it is the first big thing that has been done in a long time that really does substantially contribute to the bettering of our position there.

Yes, Mr. President, it is true I am a strict constructionist of the Constitution. But the time has long since passed for making a strict construction here, when we have been sending these men into battle for months and years, and still are, right this minute—right this minute—not as a part of an act of aggression, but as a part of an action, now, of receding and trying to pull out.

It is under those conditions, and for those reasons—and because blood is being spilled, and lives lost, and will continue to be as a result of the use of just such ammunition as we are destroying here—that I say, let us not stay our hand now, and thus send the enemy word that, "You will never be subjected to this again."

I hope we can pull out. I wish we could pull out tomorrow, out of Cambodia, and stay out forever. But I know as long as we are there, engaged in these battles, we ought not to be sending word to the enemy, "We are going to leave you alone hereafter as far as this area is concerned."

That is what we will be doing if we pass a law saying that our Commander in Chief is prohibited from doing anything like this again, regardless of the circumstances, unless he can get another law passed.

There are a lot of things about this war that are not pleasing to me. We have made plenty of mistakes. But I pray we will not make this mistake. Not this one, sending such glad tidings to our adversaries, not only those in Hanoi, but those who are allied with them—Peking, Moscow, and others—that we are going to tie a part of our other hand behind us, and we are not going to proceed unless another law can be passed.

Mr. President, I believe that when all these facts are exposed, and this has sunken into the commonsense of the American people, their verdict will be, "No; do not do it."

This is not a time to be stepping in

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here and stopping a procedure of battle that has every evidence of being highly profitable. There is no reason to promise now that we will never do it again unless we can get a law passed.

Mr. GRIFFIN. Mr. President, I wish to commend the distinguished Senator from Mississippi. Once again he has demonstrated that he is not only very learned and knowledgeable, but he is also a statesman as he rises at this point in the history of our country to say some things that ought to be said now on the floor of the Senate.

I am as concerned as any Senator about the prerogatives and the powers of the Congress, and particularly of the Senate.

But I do not understand the argument of some who support the amendment and variations thereof being talked about today. The Constitution says Congress shall have the power to declare war. Any Senator is perfectly within his rights if he wishes to introduce a resolution to declare war, or to argue the point that war ought to be declared or ought not to be declared, because the Constitution does say that Congress has the power to declare war.

It should be noted, however, that a declaration of war is a very broad policy declaration on the part of the Congress. On the other hand, the Constitution gives the President, as Commander in Chief of the Armed Forces, the responsibility to for military decisions, strategy, tactics, and so forth. In Congress we cannot, and should not, attempt to make battlefield decisions, or to draw precise lines or to make decisions regarding the time or scope of a battle, nor should we try to direct the Commander in Chief specifically with regard to how battles should be conducted, or exactly where they should be conducted. Such decisions are beyond the Constitutional powers of Congress and it would not be in the interests of the United States for the Congress to attempt to make such decisions. I am very much concerned that the amendment before us gets into that territory and that area of decisionmaking—areas which are appropriately and properly left to the Commander in Chief.

As one Senator, I would not favor a declaration of war at this particular time, under these circumstances. At an earlier point I think that might have been a question properly to be put to the Senate. It is somewhat of a moot question now, because under the facts as they have developed, we are as a matter of fact engaged in a war with North Vietnam and the Vietcong.

We are not engaged in a war with Cambodia. We have not invaded Cambodia, as some of the critics say over and over again. We are not challenging the Government of Cambodia. We are not contesting the Armed Forces of Cambodia. In fact, we are not even on territory that the Government of Cambodia has occupied or controlled during recent years.

In Cambodia we are involved in hostilities with the same enemy and we are fighting him on territory and on geography that the enemy, and not the Government of Cambodia, has occupied and controlled during recent years.

As we consider these amendments re-

solutions, particularly the so-called Church-Cooper amendment, it is important to keep in mind that one person is absolutely essential to the hope of negotiating a peaceful settlement of this war, and one person is absolutely essential to the success of an orderly withdrawal of our troops. Of course, that person is the President of the United States.

The credibility of the President of the United States is very important. That the President of the United States should be believed; that others realize that he means what he says and says what he means, is of utmost importance—not only in the United States, but more important, as far as the enemy is concerned. Because if the Senate should infer by the adoption of this amendment that we doubt, or do not believe the President, then how can we expect the enemy to believe what the President of the United States is saying?

Such an inference would not only be very damaging to the prospects for peace, but it would also be very unfair. I submit, to this President who has been cautious and very careful in his statements concerning the Vietnam war.

He has not made overly optimistic statements about our progress in the war. He has made no promises that he has not felt firmly convinced he could keep. On the basis of his record so far, surely this President is entitled to some good faith support on the part of Congress. He is entitled to the benefit of the doubt, particularly because the credibility of the President of the United States is so essential to the goals that we all want.

So I believe the distinguished Senator from Mississippi is performing a great service today when he points out the dangers that are inherent in the amendment we are considering.

Even if we were to draft an amendment which was precisely tailored to the exact and actual intentions of the President, it seems to me that it would be a mistake to adopt such an amendment. We would be tying our own hands needlessly in a way that would serve the enemy, and would make it more difficult to negotiate with the enemy. I am sure the enemy would be delighted if we were to announce that we are going to tie our own hands in this way.

So I hope that, as this debate goes on, that Senators and the people will consider carefully what is at stake here. I hope and trust that the Senate will not take any action which will have the result of impeding the President in his efforts to withdraw our troops on an orderly basis and to negotiate a settlement of this conflict.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll. Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD of West Virginia. Mr. President, I am about to suggest the absence of a quorum, and I think Senators should be put on notice that this will be a live quorum.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[No. 145 Leg.]		
Allott	Fulbright	Miller
Baker	Griffin	Packwood
Bellmon	Hansen	Prouity
Byrd, W. Va.	Hollings	Proxmire
Church	Hruska	Schweiker
Cook	Hughes	Scott
Cooper	Javits	Sparkman
Curtis	Magnuson	Thurmond
Dole	Mansfield	
Fannin	McGee	

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. YARBOROUGH), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. GOODELL), the Senator from Maryland (Mr. MATHIAS), the Senator from California (Mr. MURPHY), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

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

The PRESIDING OFFICER. A quorum is not present.

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

The PRESIDING OFFICER (Mr. HOLLINGS). The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

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

Aiken	Gurney	Pastore
Allen	Hart	Pearson
Anderson	Hartke	Pell
Bible	Hatfield	Percy
Boggs	Holland	Randolph
Burdick	Inouye	Smith, Maine
Byrd, Va.	Jackson	Smith, Ill.
Case	Jordan, N.C.	Spong
Cotton	Jordan, Idaho	Stennis
Cranston	McCarthy	Stevens
Dominick	McClellan	Symington
Eagleton	McGovern	Talmadge
Eastland	McIntyre	Tower
Ellender	Metcalf	Tydings
Ervin	Moss	Williams, Del.
Fong	Muskie	Young, N. Dak.
Gore	Nelson	Young, Ohio

The PRESIDING OFFICER. A quorum is present.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be adopted en bloc.

Mr. GRIFFIN. Mr. President, I reserve the right to object, and at the request of other Senators, and in my own behalf as well, I am constrained to object.

Mr. MANSFIELD. Does the Senator object to considering the Cooper-Church amendment, which I assume is what he is directing his objection against? That is on the bill. That is one of the amendments put in the bill by the committee. It was done so regularly, through democratic and senatorial procedure, and I just wonder if there is going to be a stall against considering the Church-Cooper amendment in view of the conditions which face the Senate and the country today or whether we should consider the business which confronts this body.

Mr. GRIFFIN. Mr. President, if the distinguished majority leader will yield—

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. I certainly do not intend to indicate any objection to consideration of the amendment. Perhaps I misunderstood the majority leader's request. It was a unanimous request that it be adopted. Was it not?

Mr. MANSFIELD. That is right; that the committee amendments be adopted en bloc—the amendments which were reported favorably by the Committee on Foreign Relations, which happens to have jurisdiction of this particular bill.

Mr. GRIFFIN. Then I would respond to the distinguished majority leader in this way: Certainly, it is very much in order to consider committee amendments when they come before the Senate, and the Senator from Michigan is only preserving a right which is in accordance with the normal procedure, as I understand it. The Senate can, of course, adopt committee amendments by unanimous consent, but very frequently we do not do so; and when such an amendment is not adopted by unanimous consent the Senate is then in a position to vote on it.

Mr. MANSFIELD. Mr. President, I understand the objection raised by the distinguished Senator. I would say that usually, as a courtesy to a committee, almost always, committee amendments are offered and accepted en bloc.

I call up the first committee amendment.

Mr. STENNIS. Mr. President, will the Senator yield to me for a matter of information?

Mr. MANSFIELD. Yes.

Mr. STENNIS. As the Senator from Mississippi understood, the Senator's unanimous-consent request was that the amendments be adopted en bloc.

Mr. MANSFIELD. Yes.

Mr. STENNIS. As the Senator from Mississippi understands, the request was that they be agreed to all together.

Mr. MANSFIELD. That is right. Then, of course, the bill would be open to amendment.

Mr. STENNIS. But the Cooper-Church amendment would already be adopted.

Mr. MANSFIELD. It is in the bill, and it would be subject to amendment with the committee amendments—the same procedure as followed by the distinguished chairman of the Committee on Armed Services as to his proposals when they come out in legislative form, out of his committee.

Mr. STENNIS. If the Senator will yield further, of course the Senator from Montana knows there is divided opinion here about the Cooper-Church amendment. There was divided opinion in the Foreign Relations Committee on it. The Senator from Mississippi does not know whether it is going to take the turn of just a vote up or down on the Cooper-Church amendment, or the proposal of a substitute, or whether there will be a proposed amendment to that amendment. Certainly until something more could be known, the Senator from Mississippi would share with the Senator from Michigan the idea of objecting.

I point out that the Senator from Mississippi does not want to unduly delay the matter, but simply to delay it for the sake of debate or understanding. This is a far-reaching matter. It has been out of the committee only a short time, and they have done a lot of fine work on it.

So it is something we cannot agree to en bloc, or agree to have go by with just slight debate.

Mr. MANSFIELD. Mr. President, I think the Senator from Mississippi is under an illusion if he thinks we are trying to get by on the basis of a slight debate. We are not. We are facing up to a grave constitutional question, which I think the Senate should be unanimously behind, because it is the Senate's responsibility and authority, in my opinion, which is at stake. I am surprised that there are Senators who would place the position of this body in a secondary position. This is a most important issue, and I call up the first amendment.

The PRESIDING OFFICER. The clerk will state the first committee amendment.

The assistant legislative clerk read as follows:

On page 2, line 13, after the word "exceed", strike out "\$275,000,000 for the fiscal year 1970 and not to exceed \$272,500,000 for each of the fiscal years 1971 and 1972;" and insert "\$250,000,000 for each of the fiscal years 1970 and 1971";.

The PRESIDING OFFICER. The question is on agreeing to the first amendment.

Mr. GRIFFIN. Mr. President, I am going to make a point of order of no quorum, unless a Senator is ready to speak.

Mr. MANSFIELD. No, make the point of no quorum, and we will have a live quorum. We have something pending before the Senate now on which a vote can be taken, and on which discussion should be had.

Mr. GRIFFIN. I suggest the absence of quorum.

Mr. MANSFIELD. And, Mr. President, for the information of the Senate, this will be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

	[No. 146 Leg.]	
Boggs	Gore	Pastore
Burdick	Griffin	Pell
Byrd, W. Va.	Hansen	Percy
Church	Holland	Prouty
Cook	Hollings	Schweiker
Cotton	Jordan, N.C.	Stennis
Cranston	Jordan, Idaho	Symington
Dominick	Mansfield	Thurmond
Ellender	McIntyre	
Ervin	Nelson	

The PRESIDING OFFICER. A quorum is not present.

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

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

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

Aiken	Gurney	Pearson
Allen	Hartke	Proxmire
Allott	Hatfield	Randolph
Anderson	Hruska	Scott
Baker	Hughes	Smith, Matne
Bellmon	Inouye	Smith, III
Bible	Jackson	Sparkman
Byrd, Va.	Javits	Spong
Case	Magnuson	Stevens
Cooper	McClellan	Talmadge
Curtis	McGee	Tower
Dole	McGovern	Tydings
Eagleton	Miller	Williams, Del.
Eastland	Moss	Young, N. Dak.
Fannin	Muskie	Young, Ohio
Fong	Packwood	

The PRESIDING OFFICER (Mr. CRANSTON). A quorum is present.

Mr. MANSFIELD. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment beginning on page 2, line 13.

Mr. MANSFIELD. Mr. President, would the Chair please have the amendment stated?

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 2, line 13, after the word "exceed", strike out "\$275,000,000 for the fiscal year 1970 and not to exceed \$272,500,000 for each of the fiscal years 1971 and 1972;" and insert "\$250,000,000 for each of the fiscal years 1970 and 1971";.

Mr. WILLIAMS of Delaware. Mr. President, I would hope that the Senate would accept the amendment. It does reduce the amount from \$275 million to \$250 million. It would restrict it to fiscal year 1970, which is about ended now and just for 1 year, 1971. This was all approved, as I recall, pretty much unanimously by the committee, and I would, therefore, certainly hope that the amendment would be agreed to.

Mr. MANSFIELD. Mr. President, I would hope that the Senate would follow the advice of the distinguished Senator from Delaware because this is a re-

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duction. It was approved unanimously in the committee. If we could have a voice vote, fine; otherwise, I will ask for the yeas and nays.

Mr. HANSEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOLLAND. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Florida will state it.

Mr. HOLLAND. Was the committee, in placing this amendment in the bill, unanimous in its action?

Mr. CHURCH. The committee was unanimous.

Mr. HOLLAND. From both sides of the aisle?

Mr. CHURCH. From both sides of the aisle.

Mr. HOLLAND. Then what is the reason for a request for a rollcall vote on this amendment?

Mr. MANSFIELD. The reason is that some Members desire a rollcall vote, even though it was agreed to unanimously in committee. What the reason for the rollcall vote is, I do not know. Personally, I would as soon have a voice vote.

Mr. HOLLAND. Is there any insistence upon a rollcall vote, in view of the fact that this was the unanimous action of the committee?

Mr. WILLIAMS of Delaware. No. I did not ask for it.

Mr. HOLLAND. I notice the Senator from Tennessee expressing himself over there. Is there any objection to having a voice vote?

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Tennessee will state it.

Mr. BAKER. Is my understanding correct that the yeas and nays have been ordered?

The PRESIDING OFFICER. They have been ordered.

Mr. BAKER. Then it would take unanimous consent to withdraw the request for the yeas and nays?

The PRESIDING OFFICER. The Senator is correct.

Mr. HOLLAND. Mr. President, I ask that unanimous consent. If anyone wants a rollcall vote, all they will have to do is to object.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Florida?

Mr. HANSEN. Mr. President, I object. The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the committee amendment beginning on page 2, line 13.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Sena-

tor from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. McCARTHY), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTROYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Connecticut (Mr. DODD), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Louisiana (Mr. LONG), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. GOODELL), the Senator from Maryland (Mr. MATHIAS), the Senator from California (Mr. MURPHY) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

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

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. GOODELL), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The result was announced—yeas 70, nays 3, as follows:

[No. 147 Leg.]
 YEAS—70

Aiken	Fong	Muskie
Allen	Gore	Nelson
Allott	Griffin	Packwood
Anderson	Gurney	Pastore
Baker	Hansen	Pearson
Bellmon	Hartke	Pell
Bible	Hatfield	Percy
Boggs	Holland	Prouty
Burdick	Hollings	Proxmire
Byrd, Va.	Hruska	Randolph
Byrd, W. Va.	Hughes	Schweiker
Case	Inouye	Scott
Church	Jackson	Smith, Ill.
Cook	Javits	Sparkman
Cooper	Jordan, N.C.	Spong
Cotton	Jordan, Idaho	Stevens
Cranston	Magnuson	Symington
Curtis	Mansfield	Talmadge
Dole	McClellan	Tydings
Dominick	McGee	Williams, Del.
Eagleton	McGovern	Young, N. Dak.
Eastland	McIntyre	Young, Ohio
Ellender	Miller	
Fannin	Moss	

NAYS—3

Ervin	Thurmond	Tower
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NOT VOTING—27

Bayh	Harris	Mundt
Bennett	Hart	Murphy
Brooke	Kennedy	Ribicoff
Cannon	Long	Russell
Dodd	Mathias	Saxbe
Fulbright	McCarthy	Smith, Maine
Goldwater	Metcalfe	Stennis
Goode	Montoya	Williams, N.J.
Gravel		Yarborough

So the amendment on page 2, line 13, was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The legislative clerk read as follows:

On page 2, line 19, after the word "thereof", strike out "during the fiscal year 1970 shall not exceed \$350,000,000 and during each of the fiscal years 1971 and 1972 shall not exceed \$385,000,000", and insert "shall not exceed \$300,000,000 for each of the fiscal years 1970 and 1971".

Mr. WILLIAMS of Delaware. Mr. President, this would reduce the amount of credit sales by \$50 million. Again, as I recall, it was approved unanimously by the committee, and I hope the Senate will approve the amendment.

Upon request, I ask for the yeas and nays so that the conference will know the position of the Senate.

Mr. PASTORE. I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the second committee amendment on page 2, beginning on line 19. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. McCARTHY), the Senator from Montana (Mr. METCALF), the Senator from Nevada (Mr. MONDALE), the Senator from New Mexico (Mr. MONTROYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Connecticut (Mr. DODD), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Louisiana (Mr. LONG), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. GOODELL), the Senator from Maryland (Mr. MATHIAS), the Senator from California (Mr. MURPHY), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

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

The Senator from New Hampshire (Mr. COTTON) and the Senator from Colorado (Mr. DOMINICK) are detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. GOODELL), the Senator from South Dakota (Mr. MUNDT), the Senator from Colorado (Mr. DOMINICK), and the Senator from California (Mr. MURPHY) would each vote "yea."

The vote was recapitulated.

After some delay:

Mrs. SMITH of Maine. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The regular order is called for.

The result was announced—yeas 64, nays 7, as follows:

[No. 148 Leg.]
YEAS—64

Aiken	Gurney	Packwood
Allen	Hansen	Pastore
Anderson	Hartke	Pearson
Baker	Hatfield	Pell
Bellmon	Holland	Percy
Bible	Hollings	Prouty
Boggs	Hruska	Proxmire
Burdick	Hughes	Randolph
Byrd, Va.	Jackson	Schweiker
Byrd, W. Va.	Javits	Scott
Case	Jordan, N.C.	Smith, Ill.
Church	Jordan, Idaho	Sparkman
Cook	Magnuson	Spong
Cooper	Mansfield	Stevens
Cranston	McClellan	Symington
Dole	McGee	Talmadge
Eagleton	McGovern	Tydings
Ellender	McIntyre	Williams, Del.
Fannin	Miller	Young, N. Dak.
Fong	Moss	Young, Ohio
Gore	Muskie	
Griffin	Nelson	

NAYS—7

Allott	Ervin	Tower
Curtis	Smith, Maine	
Eastland	Thurmond	

NOT VOTING—29

Bayh	Gravel	Montoya
Bennett	Harris	Mundt
Brooke	Hart	Murphy
Cannon	Inouye	Ribicoff
Cotton	Kennedy	Russell
Dodd	Long	Saxbe
Dominick	Mathias	Stennis
Fulbright	McCarthy	Williams, N.J.
Goldwater	Metcalf	Yarborough
Goodell	Mondale	

So the second committee amendment, on page 2, beginning on line 19, was agreed to.

The PRESIDING OFFICER. The clerk will report the final committee amendment.

The LEGISLATIVE CLERK. On page 4, line 21, insert the language down to and including line 21 on page 9.

The committee amendment is as follows:

Beginning on page 4, after line 20, insert as follows:

Sec. 7. The Foreign Military Sales Act is further amended by adding at the end thereof the following new section:

"SEC. 47. PROHIBITION OF ASSISTANCE TO CAMBODIA.—In order to avoid the involvement of the United States in a wider war in Indochina and to expedite the withdrawal of American forces from Vietnam, it is hereby provided that, unless specifically authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of—

"(1) retaining United States forces in Cambodia;

"(2) paying the compensation or allowances of, or otherwise supporting, directly or indirectly, any United States personnel in Cambodia who furnish military instruction

to Cambodian forces or engage in any combat activity in support of Cambodian forces;

"(3) entering into or carrying out any contract or agreement to provide military instruction in Cambodia, or to provide persons to engage in any combat activity in support of Cambodian forces; or

"(4) conducting any combat activity in the air above Cambodia in support of Cambodian forces."

Sec. 8. Unless the sale, grant, loan, or transfer of any International Fighter aircraft (1) has been authorized by and made in accordance with the Foreign Military Sales Act or the Foreign Assistance Act of 1961, or (2) is a regular commercial transaction (not financed by the United States) between a party other than the United States and a foreign country, no such aircraft may be sold, granted, loaned, or otherwise transferred to any foreign country (or agency thereof) other than South Vietnam. For purposes of this section, "International Fighter aircraft" means the fighter aircraft developed pursuant to the authority contained in the proviso of the second paragraph of section 101 of Public Law 91-121 (relating to military procurement for fiscal year 1970 and other matters).

Sec. 9. (a) Subject to the provisions of subsection (b), the value of any excess defense article given to a foreign country or international organization during any fiscal year shall be considered to be an expenditure made from funds appropriated for that fiscal year to carry out the provisions of part II of the Foreign Assistance Act of 1961, and at the time of the delivery of that article a sum equal to the value thereof shall be withdrawn from such funds and deposited in the Treasury as miscellaneous receipts.

(b) The provisions of subsection (a) shall apply during any fiscal year only to the extent that the aggregate value of all such articles so given during that year exceeds \$35,000,000.

(c) For purposes of this section "value" means not less than 50 per centum of the amount the United States paid at the time the excess defense articles were acquired by the United States.

At the top of page 7, insert a new section, as follows:

Sec. 10. (a) No excess defense article may be given, and no grant of military assistance may be made, to a foreign country unless the country agrees—

(1) to deposit in a special account established by that country the following amounts of currency of that country:

(A) in the case of any excess defense article to be given to that country, an amount equal to 50 per centum of the fair value of the article, as determined by the Secretary of State, at the time the agreement to give the article to the country is made; and

(B) in the case of a grant of military assistance to be made to that country, an amount equal to 50 per centum of each such grant; and

(2) to make available to the United States Government, for use in paying obligations of the United States in that country and in financing international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961, such portion of the special account of that country as may be determined, from time to time, by the President to be necessary for any such use.

(b) Section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), shall not be applicable to the provisions of this section.

On page 8, after line, 2 insert a new section, as follows:

Sec. 11. (a) In considering a request for approval of any transfer of a defense article to another country under section 506 (a) (1) and (a) (4) of the Foreign Assistance Act of 1961, and section 3(a) (2) of the Foreign Military Sales Act, the President shall not give his consent to the transfer unless the United States itself would transfer the defense article under consideration to that country.

(b) The President shall not consent to the transfer by any foreign country or person to a third or subsequent country or person of any defense article given, loaned, or sold by the United States, or the sale of which is financed by the United States (through credit, guaranty, or otherwise), unless the foreign country or person which is to make the transfer first obtains from the country or person to which the transfer is to be made an agreement that such country or person will not give, sell, loan, or otherwise transfer such article to any other foreign country or person (1) without the consent of the President, and (2) without agreeing to obtain from such other foreign country an agreement not to give, sell, loan, or otherwise transfer such article without the consent of the President.

Sec. 12 (a) Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for any purpose shall be available for obligation or expenditure—

(1) unless the appropriation thereof has been previously authorized by law; or

(2) in excess of an amount previously prescribed by law.

(b) To the extent that legislation enacted after the making of an appropriation authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

(c) The provisions of this section shall not be superseded except by a provision of law hereafter enacted which specifically repeals or modifies the provisions of this section.

Sec. 13. For purposes of sections 9, 10, and 11—

(1) "defense article" and "excess defense articles" have the same meanings as given them in section 644 (d) and (g), respectively, of the Foreign Assistance Act of 1961; and

(2) "foreign country" includes any department, agency, or independent establishment of the foreign country.

Mr. GRIFFIN. Mr. President, the Chair said "the final committee amendment." Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MANSFIELD. Mr. President, is the amendment now pending?

The PRESIDING OFFICER. The amendment is now pending.

The question is on agreeing to the amendment.

Mr. HOLLAND and Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. HOLLAND. Mr. President, I would like to address a question to the Senator now handling the bill. I note that part of the amendment; namely, section 10, beginning at the top of page 7, and extending to the end of that section—indeed, extending to the bottom of page 9, I think—relates in part to what is called "excess defense article" and "excess defense articles."

I ask the handler of the bill if he can supply for the Record a statement as to whether that term includes captured materiel, captured by our forces or coming into the possession of our forces,

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from the raids of the sanctuaries, or otherwise.

Before I conclude my question, I note that on page 9, beginning with line 15, there is a provision which reads: "defense article" and "excess defense articles" have the same meanings as given them in sections 644 (d) and (g), respectively, of the Foreign Assistance Act of 1961—which act we do not have before us.

I would like the RECORD to show, therefore, what is meant by the terms "excess defense article" and "excess defense articles" in this bill, as to whether or not that term covers captured materiel, arms and other captured material of use to armed forces.

Mr. CHURCH. First, Mr. President, I ask that the pertinent provisions of the law referred to in section 13 of the pending bill—section 644 (d) and (g), respectively, of the Foreign Assistance Act of 1961—appear at this point in the RECORD.

There being no objection, the sections of the statute referred to were ordered to be printed in the RECORD, as follows:

SEC. 644. DEFINITIONS.—As used in this Act—

- (d) "Defense article" includes:
- (1) any weapon, weapons system, munition, aircraft, vessel, boats, or other implement of war;
 - (2) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance;
 - (3) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing repair, servicing, storage, construction, transportation, operation, or use of any article listed in this subsection; or
 - (4) any component or part of any article listed in this subsection; but shall not include merchant vessels or, as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), source material, byproduct material, special nuclear material, or atomic weapons.

(g) "Excess defense articles" mean the quantity of defense articles owned by the United States Government which is in excess of the mobilization reserve at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations as grant assistance under this Act.

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

Mr. CHURCH. One minute, please. I would like to finish my statement.

Mr. HOLLAND. I have another question also.

Mr. CHURCH. I believe that these two provisions of the law should appear in the RECORD, so that they are available for everyone to read.

Mr. HOLLAND. Since they are not available now, will the distinguished Senator state for the RECORD whether the provisions of the pending bill to which I have referred, "excess defense article" and "excess defense articles," include or exclude captured materiel and goods of military usefulness?

Mr. CHURCH. Although the committee did not raise that particular question, the two provisions of the law seem to be sufficiently inclusive to embrace captured weapons.

However, the Senator raises a question for which I am not now prepared to give a precise answer. We shall endeavor to get that answer, and as soon as we have it, I will inform the Senator, and place the answer in the RECORD.

Mr. HOLLAND. Mr. President, if the Senator will yield further, while I am not in a position to make any commitment as to my position on this amendment whatever at this time, I would hope, regardless of what that position may be, that the provision of this amendment is not so broad as to preclude our Armed Forces in the field from supplying to allies or those who are defending themselves in Cambodia or in Laos with guns, ammunition, and material of all kinds which have been captured from the North Vietnamese or the Vietcong.

Mr. CHURCH. I can reassure the Senator on that particular point. As he knows, a certain quantity of AK-47's which were captured from the North Vietnamese and the Vietcong in Vietnam have already been transferred to the new Cambodian Government.

The amendment does not prohibit the transfer of weapons of that kind to Cambodia. It addresses itself, rather, to a prohibition against American military advisers. The committee left out any reference to such weapons because it was not the committee's intention to exclude the transfer of small arms to Cambodia. It was our intention, rather, to prevent us from getting involved in an escalating type of military assistance program that would necessitate our supplying Cambodia with American military advisers and other military personnel.

Mr. HOLLAND. Mr. President, if the Senator will yield, I appreciate his frankness. I call attention, however, to the fact that unless there be limiting words either in the amendment now proposed or in the provisions of the earlier act, military equipment which had been captured might or might not be covered, and it would seem to me that the wise course would be to have included specific language on that point.

I thank the Senator for yielding.

Mr. CHURCH. I appreciate the Senator's having raised this point. We will supply him with an answer. If there is any ambiguity, it will be cleared up.

Mr. HOLLAND. I thank the Senator. May I say, speaking only as one Senator, I would much prefer to have our troops in the field, with proper authority from their field commanders, given the authority to transfer such captured materiel to people fighting for their own lives against the same people who are fighting us, the Communists, rather than simply have it destroyed or brought back to where it would have to be stored.

Mr. COTTON. Mr. President, will the Senator yield me 1 minute?

Mr. CHURCH. I am happy to yield.

Mr. COTTON. Mr. President, I would like the RECORD to show that the Senator from New Hampshire missed this last rollcall because he understood the Appropriations Committee was diligently trying to report the education appropriation bill, and because he reported to that committee and could not get back up here in time to vote. That is the reason, and I would like to have it appear so in the

RECORD. This Senator will not make the mistake of being so punctual and faithful in his committee attendance in the future.

Mr. YOUNG of North Dakota. Mr. President, will the Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. YOUNG of North Dakota. I ask the distinguished Senator from Idaho if there is any intention to modify section 12. As it is now written, it would raise havoc with many appropriations that are related to the subject matter of the bill.

For example, it would exclude any money to operate the overseas schools for the education of the children of military personnel. It would make impossible payments to widows of recently deceased Members of Congress. In the first two appropriation bills that have been passed by the other body, there are at least a dozen items that would be adversely affected by this provision as it is now written.

Mr. CHURCH. Mr. President, the question the Senator raises has nothing to do with the Cooper-Church amendment. Instead, his question refers to the problem that came before the Senate last year when we were considering the foreign aid authorization bill and the Foreign Aid Appropriations Act. The Senator will recall that at that time we were asked to appropriate more money than the Senate and the House of Representatives had authorized in the Foreign Aid Act, and this amendment was intended to change that in such a way that appropriations hereafter will not exceed authorization bills.

The points the Senator raises have been included in the amendment's language which extends beyond foreign aid or the field of foreign military sales. I understand that the distinguished majority leader and the chairman of the committee (Mr. FULBRIGHT) are amicable to restricting this provision so that it will merely apply to foreign aid and to foreign military sales. That would eliminate the problems to which the Senator refers.

Mr. YOUNG of North Dakota. I would have no objection to that. Otherwise, I think the provision raises so many problems I would have to object to it.

Mr. CHURCH. Mr. President, I send to the desk two perfecting amendments to section 12, and ask that they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

On page 9, line 1, strike out "for any purpose" and insert in lieu thereof "for foreign assistance (including foreign military sales)".

On page 9, line 8, after "appropriation" insert "for foreign assistance (including foreign military sales)".

The PRESIDING OFFICER. The question is on agreeing to the amendments.

Mr. HANSEN. Mr. President, may I ask the Senator a question? I did not follow where the amendments were to be made. Are they to be inserted on page 9?

Mr. CHURCH. Right here; yes.

Mr. HANSEN. Mr. President, a little while ago, I asked for recognition, and the distinguished senior Senator from Idaho had made a unanimous-consent

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request, and, because there was competition with his voice on the floor, I was unable to hear what the request was. Would the Senator be kind enough to tell me what it was?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The request was that the two amendments be considered en bloc.

Mr. HOLLAND. Mr. President, if the Senator will yield, since his proposed amendments apply to the amendment which we are going to consider tomorrow, since I think there are serious questions in connection with that amendment, which I would not want to see frozen by the adoption of any amendments today, I hope that the vote on the proposed amendment to the amendment may also be put off until tomorrow, so that we can see it as it is printed in the RECORD and find out just what its effect would be.

May I say to my distinguished friend that I also am concerned about another thing. As the Senator knows, the Constitution permits appropriations for the armed services to be made for 2 years, and the proposed amendment, I notice, in one or more places applies to amendments pursuant to this act or to any other act, which would cover appropriations made last year.

I hope that any proposed changes to this particular lengthy amendment would be deferred until we have a chance to see them. We are asked to vote for them, without even understanding what is in them.

Mr. CHURCH. Mr. President, in view of the objection raised by the distinguished Senator from Florida, I withdraw the amendment, and ask that it be printed. Copies of it will be available for Senators tomorrow.

I also ask unanimous consent that the text of the amendment, as proposed, be printed at this point in the RECORD, so that it will be available to all who read the RECORD tomorrow.

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

The amendment is as follows:

On page 9, line 1, strike out "for any purpose" and insert in lieu thereof "for foreign assistance (including foreign military sales)".

On page 9, line 8, after "appropriation" insert "for foreign assistance (including foreign military sales)".

Mr. HOLLAND. I express my sincere appreciation to the Senator. I am not at all certain that I shall object in any way to the amendment, but I want to know what we are doing. As the Senator knows, if we vote on an amendment to this committee amendment, that part of the committee amendment becomes frozen, and I think that would be unwise; and I am glad he agrees.

Mr. CHURCH. I am happy to oblige the Senator. In so doing, I point out to him that the amendment in question does not relate to the prohibition of assistance to Cambodia which Senator COOPER and I have offered.

Mr. HOLLAND. I thank the Senator for his consideration.

Mr. CHURCH. Mr. President, I ask

unanimous consent that the names of the distinguished Senator from Illinois (Mr. PERCY) and the distinguished Senator from Indiana (Mr. HARTKE) be added as cosponsors of the Cooper-Church amendment. There are now 32 Senators cosponsoring the amendment.

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

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

Mr. CHURCH. I yield.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent, if it has not already been granted, that when the Senate adjourns today, it stand in adjournment until 12 o'clock noon tomorrow.

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

(Later, this order was modified to provide for an adjournment until 11:30 a.m. tomorrow.)

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.

Mrs. SMITH of Maine. Mr. President, will the Senator yield for a brief statement on Cambodia?

Mr. CHURCH. I would be happy to yield the floor at this time to the Senator from Maine.

Mrs. SMITH of Maine. I do not care to have the floor. It will only take me about a minute. I will take the floor, if that is the Senator's wish.

Mr. CHURCH. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mrs. SMITH of Maine. Mr. President, yesterday I received a joint letter from the majority leader and the minority leader to me, in my position as ranking member of the Committee on Armed Services, urging that the committee give highest priority to legislation on Cambodia.

The letter had a tone of extreme urgency with respect to "the highest national interest."

But there seemed to be no particular urgency in the delivery and transmission of the letter because while the letter was dated May 7, 1970, it was not delivered to my office until 6 days later on May 13, 1970.

The Post Office Department cannot be blamed because the letter was placed in the "inside mail" box and did not leave the premises of the Senate in its transmission and delivery.

Apparently we need to reactivate the Pony Express and assign it to service with the U.S. Senate on matters of urgency of "the highest national interest."

Mr. MANSFIELD. Mr. President, I have sent for a copy of the letter which the distinguished senior Senator from Maine wrote to me on yesterday, which was hand delivered by her administrative assistant. I sent her a reply in which I expressed my regrets and apologized. I think I should make the RECORD clear.

That letter was written on the

seventh, on a Thursday, and I signed it on the seventh. I do not know who is to blame for it. I do not think the Post Office Department is to blame. I am sorry that it did take that long to be delivered.

I think the Senator from Maine was right in raising the questions she had because of the slowness in receiving a communication from the joint leadership. I am personally sorry that I did not think of using Senate pages to deliver the letter at that time. I apologize to the distinguished Senator for any inconvenience or embarrassment it may have caused.

I also sent the following letter to the other Senators, who were likewise delayed in getting the mail—to the chairman of the Appropriations Committee, the President pro tempore of this body, the senior Senator from Georgia (Mr. RUSSELL); to the distinguished senior Senator from North Dakota (Mr. YOUNG), the ranking Republican member of the Appropriations Committee; to the distinguished Senator from Mississippi (Mr. STENNIS), the chairman of the Armed Services Committee; to the distinguished Senator from Arkansas (Mr. FULBRIGHT), the chairman of the Committee on Foreign Relations; and to the distinguished Senator from Vermont (Mr. AIKEN), the dean of the Republicans in this Chamber, the ranking Republican member of the Committee on Foreign Relations. Those five Senators received this reply. I will read the letter to Senator AIKEN:

DEAR GEORGE: Please accept my apologies for the letter sent to you by the minority leader and me under date of May 7th which was not delivered until today, May 13.

I am indeed sorry that there was this delay in delivery. I do not think it is the fault of the Senate mail service. We should have used a page to deliver the letter. I am deeply sorry and I hope you will accept my apologies for any inconvenience and embarrassment this may have caused you.

With best personal wishes, I am
Sincerely yours,

MIKE MANSFIELD.

Mrs. SMITH of Maine. Mr. President, may I say to the distinguished majority leader that no apologies are necessary as far as I am concerned. I wondered about the urgency of the matter, first; but, second, I wondered what the value of the inside mail service in the Senate is to us in the Senate if it cannot be depended upon more than that was. I took it to be an extreme urgency, but apparently it was not that urgent.

Mr. MANSFIELD. Mr. President, the Senator is mistaken. It was a matter of some urgency. I had thought it would be delivered that night. I did send the letter in plenty of time. Unfortunately, that was not the case.

I just want to again publicly extend my apologies to the Senator from Maine and to set the RECORD straight so far as the Senator from Maine is concerned.

Mr. President, will the Senator yield?
Mr. CHURCH. I yield.

ORDER FOR ADJOURNMENT TO 11:30 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, instead of the

Senate convening at 12 noon tomorrow, the Senate adjourn, upon the completion of business today, until 11:30 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATOR COOK TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the prayer and the disposition of the reading of the journal tomorrow, the distinguished Senator from Kentucky (Mr. Cook) be recognized for not to exceed 30 minutes.

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

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

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

Mr. CHURCH. I am happy to yield for questions.

Mr. DOLE. Mr. President, on Tuesday of this week, the junior Senator from Kansas submitted an amendment which I may offer as substitute language for the so-called Church-Cooper amendment. At that time I said, and repeat today, that I applaud the sincere efforts, of the Senator from Idaho, the Senator from Kentucky, and other sponsors of the Church-Cooper amendment; but I also share the concerns of others in this Chamber regarding the right of any President to protect American troops.

I am wondering whether the Senator from Idaho has had an opportunity to study the proposed amendment that I submitted on Tuesday. It reads:

In line with the expressed intention of the President of the United States, no funds authorized or appropriated pursuant to this Act or any other law shall be used to finance the introduction of American ground combat troops into Laos, Thailand, or Cambodia without the prior consent of the Congress, except to the extent that the introduction of such troops is required, as determined by the President and reported promptly to the Congress, to protect the lives of American troops remaining within South Vietnam.

This was commonly known in the other body as the Findley amendment. It was adopted by the other body and later dropped from the Military Sales Act.

It occurs to me this language does, in essence, what the authors of the Church-Cooper amendment intends to do or proposes to do. At the same time it does give the President that right, the right which he might have in any event, to protect American troops remaining in South Vietnam.

I take this opportunity to exchange my views with those of the Senator from Idaho, if he has any comment to make.

Mr. CHURCH. I would say, first of all, to the Senator that the substitute he proposes would, in my judgment, render the Cooper-Church effort meaningless. If this language is adopted, the Senate will merely be making an idle gesture.

With all deference to the Senator, the exception he recommends provides a loophole big enough to drive the Pentagon through.

If we are to make a serious effort, within the constitutional powers of Congress, to establish the outer perimeters on American penetration into Cambodia, it will be necessary, then, to adopt the language that the committee approved, or something very close to it.

The proposed substitute offered by the distinguished Senator from Kansas is unacceptable. It would gut the amendment, rendering it meaningless.

Mr. DOLE. Let me say to the Senator from Idaho that that is not the intent of the Senator from Kansas. I am wondering, with reference to the Senator's amendment, would he concede, notwithstanding the language in the amendment, that the President has the constitutional power and the constitutional right and obligation to take any action he felt necessary to protect American troops.

Mr. CHURCH. I would say to the Senator that Senator Cooper and I have drafted our amendment in such a way as not to challenge the rights the President may have, under the Constitution, to act as Commander in Chief. We have also taken great pains to draft the amendment in such fashion as to assert powers that we believe are vested by the Constitution to the U.S. Congress. We have merely provided that the money appropriated by Congress shall not be available for the purpose of retaining American troops in Cambodia, or for the purpose of setting up an escalating military assistance program that could lead to an entangling alliance with the new Cambodian regime. These are the objectives of the amendment. They clearly fall within the power of Congress. They simply hold the President within the limits of his declared policy but, if he should decide later that these limits need to be exceeded, that the United States should extend its occupation of Cambodia, or enter into an obligation to come to the military assistance and defense of the Cambodian Government, then he would have to come back to Congress, present his case, and ask Congress to lift the limitations.

That kind of procedure reasserts the responsibilities the Constitution vests in Congress, powers which Congress should have been asserting down through the years.

With all deference to the distinguished Senator from Kansas, if we were to substitute his amendment in place of this amendment, we would merely be making an empty gesture.

Mr. DOLE. Mr. President, let me say and make it very clear that I share some of the reservations of the distinguished Senator from Idaho, and so stated at the outset publicly, that I hope our efforts in Cambodia were to protect American troops, and to keep the Vietnamization program on schedule, not an effort to shore up the Lon Nol government. Thus, I share the concern of the Senator from Idaho, the Senator from Kentucky, and others who have joined as cosponsors; but the point is that, notwithstanding the language in the Senator's amend-

ment, or consistent with the language in the Senator's amendment, does the Senator from Idaho agree or disagree that the President, as Commander in Chief, notwithstanding the passage of the amendment and the enactment of the amendment as part of the Military Sales Act, would still have the power, under the Constitution, to go back into Cambodia or any country to protect American troops?

Mr. CHURCH. Whatever authority the President has under the Constitution, Congress cannot take from him. That is, however, only one side of the coin. The other side has to do with the authority of Congress, as vested in it by the Constitution. The Cooper-Church amendment is designed to assert that authority in such a way as to keep the present Cambodian operation within the limits declared by the President as his objective. It is idle for us to write language regarding the President's own constitutional authority. That is why we have avoided any reference to the President or to his responsibilities as Commander in Chief. We have confined our amendment to that authority which belongs to Congress—determining how and where public money can be spent.

Further, the Senator mentioned, in connection with his proposed amendment, that the Senate had earlier passed an amendment, which became law, limiting the expenditure of funds in regard to the introduction of American ground combat troops into either Laos or Thailand.

That amendment passed this body on December 15, 1969. It reads as follows:

In line with the expressed intention of the President of the United States, none of the funds appropriated by this act shall be used to finance the introduction of American ground combat troops into Laos or Thailand.

We did not then go on to say—

... except to the extent that the introduction of such troops is required, as determined by the President and reported promptly to the Congress, to protect the lives of American troops remaining within South Vietnam.

It was not thought necessary, then, to say that. It is not necessary now. Whatever power the President has under the Constitution we cannot take from him. But we can establish limits on the expenditure of public money, so that, if he wants to exceed those limits, he must then come back to Congress, present his case, and ask us to lift the limitations.

Mr. SYMINGTON. Mr. President, will the Senator from Idaho yield?

Mr. DOLE. Mr. President, will the Senator from Idaho yield further?

Mr. CHURCH. I promised to yield to the Senator from Missouri. I shall then be happy to yield further to the Senator from Kansas.

Mr. SYMINGTON. Mr. President, for personal reasons, it was not possible for me to be on the Senate floor on December 15 last. I am interested in an article from the newspapers on that day, which pointed out that the White House endorsed the amendment with respect to Laos and Thailand as being consistent with administration policy in Southeast Asia. The article quoted the minority leader as saying:

... After a White House meeting that President Nixon had told the Congressional Republican leaders that the prohibition, adopted yesterday by the Senate was "definitely in line with Administration policy."

Ronald L. Zeigler, the Presidential secretary, gave added emphasis to the Administration's acceptance of the Senate move by saying the White House regarded the prohibition as an "endorsement" rather than a "curbing" of Administration policy.

The amendment to the defense appropriations bill, adopted yesterday by a 73-17 vote, states: "In line with the expressed intention of the President of the United States, none of the funds appropriated by this act shall be used to finance the introduction of American ground combat troops into Laos or Thailand."

This wording, it was disclosed today, was approved by the White House in advance of adoption.

In the wake of the Senate action, the amendment, hastily drafted during a secret session on American military involvement in Laos, was being subjected to varying interpretations as to its significance and impact.

Senator Frank Church, Democrat of Idaho, the principal author of the amendment, described it as a "reassertion of Congressional prerogatives" in foreign policy, designed to make clear that the President could not commit combat troops to Laos or Thailand without the specific consent of Congress.

I have been in that part of the world many times, and do not see any major difference between the terrain and problems of any of those various countries; or differences with respect to what is or is not the authority of the President, or of the Congress, with respect to our relationships with said countries.

Does the Senator agree?

Mr. CHURCH. Mr. President, I agree wholeheartedly. As the Senator well knows, there lies within Laos as much of a threat to our forces as lies within Cambodia. In Laos, the Communist supply lines extend down the Ho Chi Minh trail. When we prohibited the use of any funds in the military appropriations bill for fiscal year 1970 for the purpose of introducing American ground combat troops in Laos, there was no outcry from the White House that this was undermining presidential authority or conveying a message to the world that we were trying to tie the President's hands. Yet, the same principles were involved then as are involved now.

All of a sudden, we are told that a series of ominous developments will occur if the Senate rouses itself from its lengthy slumber and begins to assert some of its constitutional authority.

Mr. SYMINGTON. Mr. President, I appreciate what the able Senator says, because this latest venture seems comparable to the point of similarity. It was in October that we found out, whereas the ground war in Vietnam was being deescalated openly, the air war over Laos was being heavily escalated in secret.

I am sure everyone wants to see hostilities out there lessened, and the whole business terminated at earliest opportunity.

Mr. President, I worry about all this sudden apprehension over the amendment now being offered by the able Senator from Idaho because of the parallel aspect of the amendment that everyone

seemed to agree on last December, only a few months ago.

I am especially worried because the people did not know what was going on in Laos until we finally got our hearings out to the public in April, many months after the testimony had been taken.

When it comes to Cambodia, no one in the Congress, to the best of my knowledge—and I am on both of the committees primarily involved—knew anything about it until well after our troops were in combat in Cambodia.

I hope that any apprehension on the part of any Senator with respect to Cambodia—an apprehension that was conspicuously lacking with respect to Laos or Thailand last December—does not mean there will be more wars out there; or that we will have more combat instead of less.

I thank the Senator.

Mr. CHURCH. Mr. President, I thank the distinguished Senator from Missouri. I agree with him that the action we in the Senate took last December came following disclosures made in executive session dealing with the extent to which we had been committed in Laos, without our having even been informed.

Basic constitutional questions are at issue here. Are we going to permit our Government to slide relentlessly toward all power being concentrated in the hands of one Chief Executive?

Are we going to permit our Government to become a Caesarism, or are we going to reassert the authority that the Constitution placed in Congress?

That is the fundamental issue. I find it very hard to understand why objection is being raised, when the limitations we seek to impose are so reasonable, so modest, and so much in conformity with the President's own declared purposes.

And it also raises the same question that the Senator from Missouri posed here earlier. Is there something else the President has in mind? Are we going still further, or returning to Cambodia again and again?

If that is the case, then all the more reason for setting the outer limits and for requiring the President to come here and seek our advice and consent concern any move that would involve us still deeper in the morass of Southeast Asia.

Mr. SYMINGTON. Mr. President, I heard the Vice President of the Government of South Vietnam on the television this morning. The net effect of what he had to say was that he did not have any intentions of stopping at any particular line in Cambodia.

It seems to me this is another illustration of why the limitation on what we supply, as presented in this amendment, is so important. General Ky is going right ahead in Cambodia, based on what it was said he asserted this morning.

I wish that the statement made by our distinguished Ambassador to South Vietnam in executive session before the Foreign Relations Committee only this morning, and in reply to my bringing this interview up could be printed in the Record at this point. Of course, it cannot be. But I must say the whole Indo-

china operation is becoming increasingly disturbing.

I have never taken the floor before to criticize in this way the conduct of this war by this Administration; but I just do not want to see our people again in the position where they think we are doing one thing, only to find out later we were actually doing another.

I am puzzled about current policy of the United States, all over the world. Only a few days ago—I believe earlier this week—I went to a meeting in the House Office Building attended by many distinguished Members of the Congress.

Among those who talked in very strong fashion in support of now supplying badly needed planes to the State of Israel were the distinguished minority leader of the Senate, the Senator from Pennsylvania (Mr. SCOTT), and the distinguished minority leader of the House of Representatives, Representative FORD.

They assured the group gathered at this luncheon of their full support of Israel when it came to selling them the planes in question; good, because this is the only country that could sell them these modern planes, except for France and the Soviet Union.

I heard this morning also that 168 young Americans were killed last week in Southeast Asia. That is many more than have been killed for many weeks, as a result of these new offensives in Cambodia.

In effect for justification for our being in the Far East we are told the wars in Indochina are important to the security of the United States. We must defend this country against Communist satellites in that part of the world.

If it is important for us to defend the United States and all other countries of the free world against Communist satellites in the Far East, why is it not to our own interest, especially when we are the only country willing and able to do so, to sell airplanes to the one country that without any American military, the only country I know of so fighting without our assistance, is fighting Communist satellites in the Middle East?

This is one of those peculiar twists in the foreign policy of the United States that is not entirely clear to me.

Mr. President, let me commend the able Senator from Idaho. I listened for many hours to him and our colleague on the other side of the aisle, the senior Senator from Kentucky, when they drafted this amendment. I am glad to support it especially in that I note the able majority leader and the ranking Republican, not only of the Foreign Relations Committee, but of the Senate, are now also cosponsors.

Whereas I have full respect for the authority under the Constitution of the President of the United States, I have equal pride, under the advise-and-consent clause of the Constitution, for the prerogatives and rights of the Congress of the United States, of which I am a Member.

I thank my able friend.

Mr. CHURCH. Mr. President, I very much thank the Senator for his splendid contribution to the debate.

I remember, apropos of the Senate's

action last December in limiting the use of public money for the purpose of introducing American ground combat troops into Laos, that we took that action after we finally learned the facts. Things have come to a sorry pass in this country when neither the American people nor the Congress is even told that our country is being involved overtly in combat in a foreign country.

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

Mr. CHURCH. I shall yield to the Senator in just a moment.

What was true with respect to Laos is also true of Cambodia. We tried to find out what was planned for Cambodia. Twice the Secretary of State came to meet with the Committee on Foreign Relations, once on April 2 and again on April 27. At neither time were we told, nor was it hinted to us, that the President intended to order American troops into Cambodia.

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

Mr. CHURCH. I yield.

Mr. SYMINGTON. Would the Senator have included Cambodia in his resolution last December if he had had the remotest conception that we would be attacking Cambodia at this time?

Mr. CHURCH. If anyone had suggested that Cambodia was on the list, there is no question in my mind that Cambodia would have been added to Laos and Thailand. I am sorry it was not. Perhaps if we had added it then, we would not be faced with this serious crisis now.

Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. I take issue with the word "attack" used by the distinguished Senator from Missouri. I also remind him that another great Missourian, former President Truman, went into Korea without the consent of Congress.

Let me say to the Senator from Idaho that I supported and voted for the resolution on Laos and Thailand. The Senator knows the language of my substitute is almost identical with the language drafted with great care by the Senator from Idaho and others, except it has one additional provision.

Does the Senator believe the President, whoever he may be, has a right, notwithstanding whatever Congress might do, to protect American troops?

Mr. CHURCH. As I said before and will say again, whatever right the President has, is vested in him by the Constitution.

It is not within the legislative power of Congress to deny him that right. That is not what we are trying to do here. We are trying to assert the rights we have under the Constitution.

Mr. DOLE. I concur in that.

Mr. CHURCH. If the Senator would stop where we stopped in December and suggest, in line with what we have already done, that in the case of Cambodia, we adopt a similar amendment which would read:

In line with the expressed intention of the President of the United States, no funds authorized or appropriated shall be used to finance the introduction of American ground combat troops into Laos, Thailand, or Cam-

bodia without the prior consent of the Congress—

Then I would consider it as a substitute. It is the final language that undoes the limitation.

The final proviso reads, "except to the extent that the introduction of such troops is required, as determined by the President and reported promptly to the Congress, to protect the lives of American troops remaining within South Vietnam."

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

Mr. CHURCH. I shall yield to the Senator in a moment.

It is our responsibility here to set limits with respect to the spending of public money. We cannot undertake to define the President's power, but we can undertake to set limits on the expenditure of public funds. If the President feels those limits should be exceeded, let him come here and make his case.

Mr. DOLE. I appreciate the Senator's expertise. The Senator is an expert in this area and I wish to ask this question. In the event the Cooper-Church proposal passed, as in the case of the amendment last December, which was by a vote of 73 to 17, as I recall, does the Senator believe that takes away any right of the President or gives him more rights than he had under the Constitution? In the Senator's opinion would it mean that he had a right to protect American troops, if it meant crossing a border into Laos or Thailand? What is the Senator's best judgment?

Mr. CHURCH. My best judgment is that he did not send troops into Laos, which it was recommended that he do, because he recognized that Congress had established limits in the law with respect to Laos and Thailand. In other words, if we assert our authority, we can establish limitations which the President will respect. If he feels the need, he will come here and present his case. That was the role Congress was authorized to fulfill in regard to war and peace until we abdicated our authority, placing most of it in the President's hands. We do very little nowadays except vote the money, while leaving it to the President to decide who, where, and when we shall fight.

We have reached the point, however, where we must reassert our constitutional powers. We must now recognize that Congress must recover its authority in those areas that mean the most to the country, such as war and peace, and ultimately, the life and death of this Republic.

Mr. DOLE. Does the Senator from Idaho agree or disagree that a President, whether it be President Nixon or some other President, has the right under the Constitution to protect American forces? Does the Senator agree that he has this right, or does the Senator believe he does not have this right? Perhaps we can work out some accommodation on the language if we can agree.

Mr. CHURCH. I repeat to the Senator what I have said before, because it is the only way I know to say it. I do not believe the power lies with the Senate or the House of Representatives, or both bodies of Congress, to define the Presi-

dent's authority under the Constitution. That would be an act of futility.

On the other hand, we can move affirmatively within the bounds of our own powers, and that is what this amendment is designed to do. But if you "fudge" it up, then it is an empty gesture, and the Senate becomes nothing more than a fudge factory.

Mr. DOLE. I would like to ask the Senator, What happens if we agree to the amendment and then, the President finds it necessary to move troops across a boundary line? Is he then faced with another confrontation with Congress because we would not make clear what the President's rights might be in that case?

Mr. CHURCH. There is no doubt in my mind that if ever the safety of American troops is involved, then the President can make his case and the Congress will quickly move to do whatever is necessary to support the President in his efforts to safeguard American troops. There is no problem along these lines. That is a decision which should be shared between the President and the Congress, as the Constitution intended. It is not a decision which lies exclusively in the power of one man. The President can always come up here and present his case. If we draw no limits, then it is open to him to act alone, which he has been doing, and which his recent predecessors have been doing. In fact, it is this process which has gotten us stuck so fast in a bottomless bog in Southeast Asia.

Mr. DOLE. In the face of imminent danger to American troops, the Senator says the President must come to Congress and request the authority from Congress to give protection to these American troops?

Mr. CHURCH. I have said, and I do not think it is necessary to say it again—

Mr. DOLE. I feel it is necessary and beyond that vital.

Mr. CHURCH. That if the President should act under his authority, as vested in him by the Constitution of the United States, this authority cannot be diminished or withheld from him by Congress; but we also have authority that we can assert, and that it is the objective of the Church-Cooper Amendment.

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

Mr. CHURCH. I yield.

Mr. GORE. I have listened with a great deal of interest to this colloquy, which deals with a fundamental constitutional question. I would like briefly and impromptu to express some views.

The genius of our system is that we have coordinate, coequal branches of government, with checks and balances one upon the others and the others upon the one. The warmaking powers are vested in the legislative and the executive. A war cannot be waged except with the support of both.

By the rationale advanced by my distinguished and able friend the junior Senator from Kansas, the President would have the authority to launch an attack upon China tomorrow, or tonight, or at this moment, without the approval of Congress. China is a sanctuary, in-

deed the greatest sanctuary of the war, to the enemy in Southeast Asia. It supplies rice, ammunition, the supplies, equipment, and materiel of all sorts. So by that reasoning, by that rationale, without the approval of the elected representatives of the people, the Congress, indeed, even without any consultation with them, the President could say, it is in the interest of saving American lives, the lives of those who are now in Vietnam, to bomb, to attack, to eradicate the sanctuary in Red China.

Would not that be just as logical, just as constitutional, as what we have just heard?

Mr. CHURCH. I must concede that it would. The Senator's argument underscores the fact that the authors of our Constitution never envisioned that a President, on his own decision, would send American troops to a war in a distant, foreign country.

The whole purpose of placing the war power in the hands of Congress was to make certain that such a fateful decision would be formulated by the representatives of all the people, including the President, and not by the Chief Executive alone. Why, the framers of the Constitution would turn in their graves if they knew how the shared responsibility, which they provided in that document, has eroded away.

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

Mr. CHURCH. I am happy to yield.

Mr. GORE. This seems to the senior Senator from Tennessee a strange interpretation for one who is a self-proclaimed strict constructionist. I must say that I was struck by the lack of logic, by the lack of reasoning, by the absence of principle, when the President said to a group of Representatives and Senators, at which conference I was sitting beside the distinguished senior Senator from Idaho, that he would not go farther than 35 kilometers without the approval of Congress. I thought that strange. A President who, without the approval or even consultation with Congress, had ordered an invasion of a sovereign country by thousands of American troops was yet telling representatives of the people that he would not invade farther than 20 miles without the approval of Congress.

What is the difference in principle between 20 miles and 30 miles, or the whole country?

Mr. CHURCH. It escapes me.

Mr. GORE. The tragic mistake was ordering the invasion, the crossing of the boundary of a small neutral country. When the reaction in the country and in the world was adverse then to placate the Congress he promises about 50 of us that he will not invade farther than 20 or 21 miles without the approval of Congress and that all U.S. troops would be withdrawn from Cambodia by June 30, 1970. But now that the Congress wishes by this resolution to take his promise at face value, a lobbying effort is undertaken and the propaganda minions are unloosed to accuse those of us who wish to be strict constructionists of the Constitution where war or peace and the lives of American boys are con-

cerned of being unpatriotic. Deplorable, perfectly deplorable.

Mr. CHURCH. I thank the Senator from Tennessee for his comments.

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

Mr. CHURCH. I yield to the Senator from Rhode Island.

Mr. PELL. Along the line of the previous questions and points, when the patriotism of those of us who support this amendment, who believe our present policies wrong, is questioned by the two largest veterans' organizations, I think it is of interest to note that 82 percent of the sponsors of the amendment under discussion are veterans, as opposed to 71 percent in this body as a whole. I think it is an interesting statistic.

Now I would like to ask the Senator, who, as a lawyer, is more educated in the law than I am, and is also versed in international law, what is the difference between the sanctuaries in Thailand from which our bombers move and the sanctuaries in Cambodia from which the North Vietnamese move.

Mr. CHURCH. The difference is that the Thai sanctuaries are ours and the Cambodian sanctuaries are theirs.

[Laughter in the galleries.]

Mr. BYRD of West Virginia. Mr. President, may we have order in the galleries?

The PRESIDING OFFICER. The galleries will be in order.

Mr. PELL. I thank the Senator for that correct reply.

What would be the difference in international law if, just as we, the big brother of South Vietnam, have moved into Cambodia to extirpate North Vietnam's sanctuaries, let us say China, as big brother of North Vietnam, offered to extirpate our sanctuaries in Thailand. So far North Vietnam has intelligently resisted the blandishments of China, but suppose one day she succumbed. Would there be any difference in international law?

Mr. CHURCH. I say to the Senator that the sequence of possibilities he suggests exposes the weakness of the decision that the President has made to strike against the Cambodian sanctuaries. After all, all of Indochina behind the enemy lines constitutes the enemy's sanctuary, and, as the Senator has observed, we have our sanctuaries, too, in Thailand, in the sea around the Indochina peninsula—dominated entirely by American naval forces—and even, in a sense, in the air above the battleground, which is also dominated by American air forces.

If this war becomes a pursuit of sanctuaries, then, if past experience is any guide, our thrusts will be met by enemy counterthrusts, and the danger, of course, is that this will force a spreading of the war, perhaps beyond our imaginations.

Mr. PELL. I would like to ask another question of the Senator in the field of law, where I need perhaps to be educated a little more.

It has seemed to me that in the last few days that a new dimension has been added to the Cambodian invasion, or involvement, or incursion, or whatever we wish to call it, in that we are now not

only involved on the land and in the air, but we are also involved on the sea. We in the Committee on Foreign Relations took some note of that fact, and actually strengthened the amendment of the Senator from Idaho to cover the sea forces on the river. But at that time events were moving so fast that we did not realize that what seems to be a blockade would be extended at sea.

As I understand it, now there is what is called a protective patrol, which, from my memory of service in World War II, means a blockade, around Cambodia and South Vietnam up to the DMZ line.

In other words, we are treating Cambodia more sternly, when it comes to a naval blockade or whatever we call it, than we are Hanoi and Haiphong, which seems odd.

I was wondering if the Senator's recollection is the same as mine, that a blockade usually means war, is considered as an act of war or can be considered as an act leading to war.

Mr. CHURCH. The Senator is correct.

Mr. PELL. And, in order to be legal, does it not have to be effective, in other words total?

Mr. CHURCH. I would not attempt to pass judgment upon the legality of a blockade. The actual effectiveness of a blockade depends upon its totality.

Mr. PELL. All of these questions on which I am being educated bear out the necessity for the passage of the amendment under discussion, and I further affirm my delight and pride in being one of the cosponsors.

Mr. CHURCH. I thank the Senator very much for his generous comment.

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

Mr. CHURCH. I am happy to yield.

Mr. HOLLINGS. Would the distinguished Senator pass on the legality as to the effective date? Is the intent, since it is an appropriations act, not until July 1? Is that the intent?

Mr. CHURCH. No; the amendment is written in such a way that it would take effect upon its enactment into law; that is, it would take effect immediately after signed into law by the President.

Mr. HOLLINGS. So, then, in that provision, for example, on page 5 at lines 4 and 5, "it is hereby provided that, unless specifically authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this Act or any other law," since the moneys presently being expended for the military activity are being expended under "any other law," it would, immediately upon signature, cut off funds for the present military activity in Cambodia at this time, or prior to July 1?

Mr. CHURCH. I would like to clarify that for the distinguished Senator.

Mr. HOLLINGS. Yes.

Mr. CHURCH. The amendment goes into effect upon enactment, but the amendment provides that no funds shall be appropriated, or no appropriated funds shall be used, for certain purposes. So the effect of the amendment has to be considered in the light of those purposes.

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The first purpose is against retaining American forces in Cambodia. If it were to happen that this amendment could be affixed to this bill, could go to conference, could survive conference, and then go to the President for his signature before the current operations are finished—

Mr. HOLLINGS. Right.

Mr. CHURCH. The language of the bill would still be such as to permit the President to complete the present operation.

The amendment prohibits American forces from being retained, in Cambodia. The President has said he does not intend to retain American forces in Cambodia. He has assured the country that they will be coming out within the next few weeks, and that he will withdraw all American forces from Cambodia, in any case, on or before July 1 of this year.

So the amendment is drafted to permit him to proceed with the present engagement within the confines of his own declared policy. It would, however, prohibit him from changing that policy and retaining American forces in Cambodia, without first obtaining congressional consent.

Mr. HOLLINGS. But on page 5, that number, which is "retaining," is succeeded by No. (2), which says "paying the compensation or allowances of, or otherwise supporting, directly or indirectly, any U.S. personnel in Cambodia."

Mr. CHURCH. As instructors. This is the second objective of the amendment, which is to prohibit the use of funds for sending American military advisers and instructors into Cambodia in support of Cambodian forces. According to the President, there are none there now.

The President has stated, moreover, that the only military assistance he has thus far approved has been the transfer of small arms to Cambodia. Our purpose is to prevent that modest military assistance program, which involves no American personnel, from escalating into the transfer of sophisticated weapons, requiring American instructors and American advisers. This would move us into Cambodia as we moved into Vietnam, first with a modest military assistance program, then with military instructors, advisers, and personnel, and finally with combat troops.

Mr. HOLLINGS. Obviously, from the Senator's answer, he understands it clearly. But in this use of terminology, where some say we are "withdrawing" and others say we are "invading," we cannot tell which direction we are headed. Would the Senator object to a July 1 effective date, since he says all this is going to end by July 1 and since this is an appropriation act for the next fiscal year, and that is what the Senator intends and the President intends? Would that be all right?

Mr. CHURCH. I certainly would give it serious consideration. I would want to discuss it with other sponsors and co-sponsors of the amendment.

This particular point came up in committee hearings. I want to tell the Senator the reasons that we decided not to put the actual date into the amendment so that he will understand why it was that a specific date was not included.

The first reason was that it might be construed as an approval of the action, which concerned some members of the committee very gravely.

Second, it was felt that a dateline, though it is the President's own declared dateline, might be held up as a manacle to the President which would prevent him necessary latitude of a week or two if developments in the field made that desirable.

We wanted to give him all the flexibility he should reasonably have, while still taking him at his word, that we decided not to insert the date.

However, an argument can be made on the other side of that proposition; and I know the argument, I respect it, and I say to the Senator that any suggestion along that line would be one that we would seriously reflect upon.

Mr. CHURCH. Mr. President, I know that the Senator from Kansas wishes the floor, and I will not detain him much longer.

I do think it is interesting, however, in view of the questions he posed earlier, to remember that in 1846 President Polk sent American forces into disputed territory in Texas which precipitated the clash that began the Mexican War.

Abraham Lincoln was then a Congressman from Illinois, and he took strong exception to the Presidential decision that led to our involvement in the Mexican War. He wrote some memorable words concerning the Constitution and the intended limits on Presidential discretion in the matter of war. I should like to read those words to the Senate. Abraham Lincoln wrote:

Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so. *Whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect, after you have given him so much as you propose.*

The provision of the Constitution giving the war-making power to Congress, was dictated, as I understand it, by the following reasons. Kings have always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our convention undertook to be the most oppressive and all kingly oppressions; and they resolved to frame the Constitution that no one man should hold the power of bringing this oppression upon us.

I yield the floor.

Mr. DOLE. Mr. President, I am aware of that quotation by Lincoln, and I am aware that he lost the next election. I am not certain it was because of his position on that issue.

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

Mr. DOLE. I yield.

Mr. CHURCH. I think it was. I think he did, indeed, lose the next election because he stood on a constitutional principle that he felt was more important.

Mr. DOLE. Mr. President, let me remind the Senator from Idaho, as I stated on Tuesday—and again today—that I approve in part, of his efforts. I know of his sincerity and that of the senior Senator from Kentucky.

Everyone, with the exception of some 17 Members, supported the Senator from

Idaho's amendment on December 15 of last year with reference to Laos and Thailand. I have quickly reviewed the debate on that amendment, and find no reference at all to protection of American troops. Of course, there was no reference to Cambodia because at that time Sihanouk was still in power, and it is understandable why we did not concern ourselves with that country at that time.

I can also understand why we did not address ourselves at that time to the very vital question—and perhaps the overriding question—in my mind and that of other Senators, and that is the protection of American troops and what right the President may have in respect thereto. We all recognize, and say publicly—that we should not be involved in another Vietnam, whether it be in Laos, Thailand, Cambodia, or wherever. But I remind my colleagues that President Nixon has kept the faith. He has kept his promises with reference to South Vietnam. He has announced troop withdrawals, and he has carried out each troop withdrawal on schedule—in fact, in some cases ahead of schedule.

It appears that in our efforts to circumscribe the powers of the President, we are saying to the President, in this instance, "Even though you say you will disengage from Cambodia on July 1, even though you are reducing the war in Vietnam, even though you have deescalated the bombing, even though you have reduced the number of troops by 115,000 and have announced another reduction of 150,000 since January 20, 1969, you are not to be trusted." So it is incumbent upon us, in the U.S. Senate and in the U.S. House of Representatives, not to literally handcuff the President of the United States.

We can always rely on the Constitution. I trust we always may have that right. It seems, however, that we should have some position on the vital question: Do we or do we not believe that the President of the United States, when American troops are threatened with imminent danger, has the right to move to protect them?

The language of my substitute, which I may offer as a substitute for the so-called Cooper-Church amendment, is identical for the most part to the language drafted by the senior Senator from Idaho last December. It contains just one proviso and one exception:

Except to the extent that the introduction of such troops is required as determined by the President and reported promptly to Congress to protect the lives of American troops remaining within South Vietnam.

Let me make it very clear that I share the concern expressed by the distinguished Senator from Idaho and do not want to become involved in a war in Cambodia. I would reject being in Cambodia to shore up the Lon Nol government. I do believe, however, we must give this President, or any President, the right to protect American troops who may remain in South Vietnam.

Therefore, the junior Senator from Kansas feels that either through some substitute language or some provision added to the so-called Cooper-Church amendment, it should be made clear that

this Congress recognizes that right of the President. I say to my friend from Idaho that it appears that by him not commenting directly on the question, I assume that one may see it either way—either the President has that right or the President does not have that right.

It also appears we are in general agreement as are most Members of this body concerning some of the basic purposes of the Cooper-Church amendment. But there are some—I count myself in that group—who want to make certain that the President of the United States, the Commander in Chief by the Constitution and the Chief Executive Officer by the Constitution, has that right when he determines it is necessary to protect the lives of American troops remaining within South Vietnam.

Extreme arguments can be made that perhaps the largest sanctuary is Red China or that there may be other sanctuaries in Laos or Thailand, and that this language could be used to undo what Congress feels it should do.

But if this issue is seriously considered, then what is really the question and what is being said to the American people is that this Congress lacks faith in the credibility of this President. But I would say again that the President of the United States, since January 20, 1969, has kept faith with the American people with reference to South Vietnam. He has kept his promise on troop withdrawals. The level of troop reduction is now 115,000 below the level when he took office. He has announced an additional troop reduction of 150,000, and that will be carried out on schedule.

The purpose of my exchange with the Senator from Idaho is to determine whether there may be some common ground or some area where not only the President can be accommodated, but also the consensus of Congress.

I recognize the power of Congress under the Constitution to declare war and the power of Congress to appropriate money. I am aware of the 2-year prohibition and know the purpose of that prohibition and agree with it.

Mr. President, the junior Senator from Kansas also recognizes that this issue has been raised ever since the time of George Washington—in almost every administration since then. Thus it seems, and I would hope that in the debate on the pending amendment perhaps some broad agreement can be reached. I would, therefore, again ask the Senator from Idaho, in all sincerity and with great respect, whether he believes, knowing the Constitution as he does, and knowing the rights and powers of the Congress and the President as he does, whether he believes that, in the event of danger to American troops and the need to protect the lives of those troops, does the President have that right?

Would the distinguished Senator from Idaho comment on that?

Mr. CHURCH. I would be very happy to comment. Is the Senator going to continue his remarks?

Mr. DOLE. Yes.

Mr. CHURCH. We are, then, going back again over the old ground—

Mr. DOLE. Let me say ahead of that—

Mr. CHURCH. I can answer the Senator. I will answer the Senator. The President of the United States, acting as Commander in Chief, has, in the past, and will in the future, take action he feels necessary to protect American troops in the field. We could not deny him his powers under the Constitution to do that, if we tried. But, we are not trying to do that with this amendment.

It is wrong to characterize this amendment as handcuffing the President of the United States.

It is wrong to cast it in the light of not trusting the President of the United States.

There was a reason that the Constitution vested certain responsibilities in Congress when it came to war and when it came to control of purse strings. Our Founding Fathers thought that that authority could better be exercised by many men rather than only by one man.

All this amendment attempts to do is to impose certain limits upon the use of public money, which is the prerogative of Congress. The amendment looks to two objectives; namely, one prohibits use of money to retain American forces in Cambodia—which the President says he does not intend to do; and, second, it prohibits the use of money to get us entangled in a new military alliance with the Cambodian regime in Phnom Penh.

Congress has that right. If the President later thinks that these restrictions on the use of public money should be lifted, then he can come here and make his case and we can decide.

But the insistence that, somehow, the exercise of the powers which were vested by the Constitution in Congress is an affront to the President of the United States, seems to me to be the most demeaning of all possible arguments that could be made where the integrity of Congress is concerned.

That is why I say to the Senator—and I have answered him several times over regarding it—that I think it is as plain as it can be, that we intend neither to handcuff the President nor to interfere with his right to act within his responsibilities under the Constitution, nor do we intend to raise questions concerning the sincerity of his purposes.

We simply undertake to impose, on our own responsibility, certain limits as to the use of public money. I think the time has come for us to do that.

If, indeed, the President should decide at a later date to plunge this country even more deeply into Southeast Asia, then I think he should come to Congress and ask for our consent.

That would be, I think, the result of this amendment. And I think it would be a healthy result for the institutions of this Republic.

Mr. DOLE. Mr. President, I thank the senior Senator from Idaho. Again, I believe there can be some area of accommodation here. I am certain that the Senator from Idaho is aware of the broad support that was enjoyed by him, on both sides of the aisle, last December for his amendment with reference to Laos and Thailand.

Therefore, if that language was adequate in December of 1969, it should be adequate in May of 1970.

It also occurs to me, there could be that same broad support simply by restating the Laos and Thailand amendment to read:

In line with the expressed intention of the President of the United States, no funds which shall hereafter be authorized or appropriated pursuant to this act, or any other law, shall be used to finance the introduction of American ground troops into Cambodia without prior consent of Congress.

Or perhaps some other language, just to make certain we protect the rights of those there at the present time. Because, as stated earlier, I supported the Senate amendment last December. I recognize the rights of Congress and its responsibilities under the Constitution. I would hope that, during the course of this debate, some agreement with reference to the pending amendment, or some substitute language therefor can be reached.

But, I repeat, whatever we may feel in this Chamber, I believe the American people would interpret action by the Senate, if the pending amendment were to be adopted, as a direct slap at the President of the United States for taking the action he deemed was necessary on April 30, to accomplish two things, to protect the lives of American troops and to keep the Vietnamization program on schedule.

Mr. President, it will be some months before we know whether the President's judgment was correct.

It will be several months before we know whether American lives were saved, and whether casualties were, in fact, reduced.

It will be several months before we will know whether, because of the action in Cambodia, the Vietnamization program can be kept on schedule.

Thus, whatever the intention may be—and I question no one's motives—but whatever the intentions may have been at the time, it appears clearly now that this amendment confronts the President of the United States, who has said time and again that on July 1, or before, all American troops will be withdrawn from Cambodia, and appears to question his judgment and his word as Commander in Chief.

I appreciate the response by the senior Senator from Idaho, and would assume from his response that he might agree, in the event of danger to American troops, that the Commander in Chief could use such powers he has under the Constitution, to do what he thinks appropriate to protect the lives of American troops, or other Americans for that matter.

Accordingly, I say to my distinguished colleague from Idaho, perhaps some accommodation can be made, to demonstrate to the American people that Congress wants to share the responsibility, that it has an obligation to share the responsibility, but in doing so, it will not take an indirect slap at the Commander in Chief, whoever he may be.

Mr. CHURCH. Mr. President, I have just one final word this afternoon. I believe that the discussion has made it clear that the central issue involved here has to do with the constitutional powers of

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the Congress and the President in the matter of a foreign war.

In the May 14 edition of the *Washington Post*, a very impressive and scholarly article, written by Merlo J. Pusey, is published. It is entitled "Presidential War: The Central Issue."

The article is of such quality that it should be called to the attention of all Senators.

Mr. Pusey writes:

PRESIDENTIAL WAR: THE CENTRAL ISSUE

(By Merlo J. Pusey)

It would be a pity if the serious constitutional issue underlying the current protests against the war should be lost in the cyclone of threats, anti-Nixonisms and obscenities. However clumsy they may be in articulating it, the students do have a legitimate complaint. They face the possibility of being drafted against their will for service in a presidential war.

All the talk about pigs, revolution and smashing the establishment fails to alter the fact that, in one basic particular, the dissenters are the real traditionalists. Madison and Jefferson would have understood the anger on the campuses against the dispatch of young men to war in Southeast Asia at the dictation of one powerful executive. Madison and his colleagues wrote into the Constitution a flat prohibition against such a concentration of power. Yet it now seems to be accepted as standard American practice.

President Nixon reiterated his claim to the war power the other night in his news conference in explaining that none of his advisers was responsible for the invasion of Cambodia, he said:

"Decisions, of course, are not made by vote in the National Security Council or in the Cabinet. They are made by the President with the advice of those, and I made this decision."

The question of going to Congress for the decision or even of discussing the matter with congressional leaders appears not to have been considered. The result of the decision was to extend the war to another country. By any interpretation that may be placed upon it, this was a grave involvement for the nation. Most of our Presidents would have deemed it imperative to go to Congress for authority to take such a step.

Now the administration is resisting the attempt of the Senate Foreign Relations Committee to cut off funds for military operations in Cambodia. The committee has carefully tailored its restriction so as not to interfere with the President's avowed intention of clearing the sanctuaries and then withdrawing the American forces. But this has met with opposition from the State Department on the broad ground that actions of the Commander in Chief should not be subject to statutory restrictions.

There are several interesting phrases in this letter which Assistant Secretary David H. Abshire sent to the Foreign Relations Committee. He contends that Congress should not limit military spending in such a way as to "restrict the fundamental powers of the President for protection of the armed forces of the United States." The implication seems to be that the President has authority to send our armed forces anywhere in the world, for purposes which he thinks appropriate, and then to take whatever additional action he may think necessary to protect those forces. Under this reasoning, it seems, no one can do anything to stop a presidential war.

This view of the war power is not, of course, unique with the Nixon administration. President Truman made even more expansive claims to unlimited presidential power, and LBJ was not far behind. Mr. Nixon's State Department is merely mouthing what has become accepted doctrine in

the executive branch. But it is an outrageous doctrine that flies into the face of the letter and spirit of the Constitution and is repugnant to the basic concepts of democracy.

There is no principle about which the founding fathers were more adamant than denial of the war power to a single executive. After extended debate they gave Congress the power to raise and support armies, to control reprisals and to declare war, which, of course, includes the power of authorizing limited war. The President was given authority to repel sudden attacks, but there is nothing in the Constitution which suggests that this can be legitimately stretched to cover military operations in support of other countries in remote corners of the world.

In a literal sense, therefore, it is the students—or at least the nonviolent majority among them—who are asserting traditional, constitutional principles. It is the State Department which is asserting a wild and unsupported view of presidential power that imperils the future of representative government.

Somehow the country must get back to the principle that its young men will not be drafted and sent into foreign military ventures without specific authority voted by Congress. That is a principle worth struggling for. Congress now seems to be groping its way back to an assertion of its powers, but its actions are hesitant and confused, as if it were afraid to assume the responsibility for policy-making in such vital matters of life and death.

Of course Congress is at a great disadvantage when it tries to use its spending power to cut off a presidential war for which it has recklessly appropriated funds in the past. In these circumstances, the President is always in a position to complain that the result will be to endanger our boys at the fighting fronts. Congress seems to have discovered no sound answer to that warning.

But Congress could stop presidential wars before they begin by writing into the law firm prohibitions against the building of military bases in foreign countries and the dispatch of American troops to other countries without specific congressional approval. If Congress is not willing or able to devise some means of restoring the war power to the representatives of the people, we may have to modify our system of government so that the President would become answerable to Congress for abuses of power. In the light of our Vietnam experience, it seems highly improbable that the country will long continue to tolerate unlimited power in one man to make war.

Mr. President, it is this very objective, the objective of setting the limits to prevent our present incursion into Cambodian territory from becoming an unlimited new front in an expanded war in Southeast Asia that this amendment is offered. We can set limits now if we will only act. We can set these limits in strict accordance with the President's declared policy if we will only act. Then, should the time ever come when the President thinks a further extension of the war is justified, he would be obliged to come back to Congress, as he should have done in the first place, and lay his case before us. That was the kind of sharing of power the Constitution contemplated. It is time we got back to it in this country.

AMENDMENT NO. 628

Mr. GORE. Mr. President, I submit an amendment which I send to the desk and ask that it be printed and lie at the desk.

The PRESIDING OFFICER. The

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

Mr. GORE. Mr. President, this amendment proposes to strike from lines 5 and 6 page 1 of the pending amendment the words "expedite the withdrawal of American forces from . . ." and insert in lieu thereof the following words: ". . . facilitate a negotiated peace in . . ."

The section presently reads as follows:

In order to avoid the involvement of the United States in a wider war in Indochina and to expedite the withdrawal of American forces from Vietnam, it is hereby provided . . .

As I would amend it, it would read as follows:

In order to avoid the involvement of the United States in a wider war in Indochina and to facilitate a negotiated peace in Vietnam, it is hereby provided . . .

What I seek to do by this amendment is to draw a clear distinction between a negotiated peace, on the one hand, and the policy of "Vietnamization," so called, which we have had since June of last year and which has not brought an end to the war and during the existence of which this country has suffered more than 50,000 casualties on the other hand.

Mr. THURMOND. Mr. President, adoption of the amendment being debated here today would prevent the President of the United States from taking future actions he might deem necessary to insure the safety of our 400,000 troops remaining in Vietnam.

Furthermore, tying the President's hands in the proper exercise of his role as Commander in Chief of our committed military forces, would certainly hamper the chances for success of the Vietnamization program.

In this connection it could delay the return home of some 150,000 more U.S. troops scheduled to come out of Vietnam by next spring. The President has promised faithfully to carry out this withdrawal but if we restrict him he may be unable to follow through.

Many argue President Nixon had no right to attack the Communist sanctuaries in Cambodia. It is my contention he had an obligation to do so. In taking this action he will undoubtedly reduce our casualties over the next year and also insure continued success of the Vietnamization program.

This limited action in Cambodia is within the range of power of the President as Commander in Chief of our Armed Forces. He was executing a constitutional prerogative, clearly supported by history. His power under article 2 of the Constitution as Commander in Chief is broad and sweeping. Many Presidents have committed American forces to combat in foreign countries without a declaration of war by the Congress. These operations, for the most part, did not involve an act of war by the United States against the country involved but were measures to protect American interests, personnel or troops. Most of these operations met with the approval of the governments whose territory was involved. And further, the vast majority of these operations were limited in nature and

scope, as is our present involvement in Cambodia.

Our fighting men have moved into foreign territory many times. In recent history President Truman sent U.S. forces into Korea and we fought there for several years without a declaration of war. President Eisenhower sent American forces into Lebanon and President Johnson sent them into the Dominican Republic and South Vietnam.

Generally accepted rules of international law support the President in the Cambodian operation. As a matter of international law when a neutral country like Cambodia cannot maintain its neutrality, and when the result threatens the lives of U.S. forces nearby, then the right of self-defense is clearly recognized.

The Cambodian operation is a limited military operation and it has been extremely successful. Can anyone in this Chamber deny that this action will, in the long run, reduce American and allied casualties in South Vietnam?

It seems to me the results of the operation to date should amply answer that question. As of today the Pentagon reported the following information:

Enemy killed -----	5,404
Detainees -----	1,431
Individual weapons captured -----	7,540
Crew-served weapons captured -----	1,071
Rice (tons) -----	2,499
Rice (man months) -----	109,956

"Man months" means the number of men who could live on that rice for a month.

Rockets (each) captured -----	9,405
Mortars (each) captured -----	13,384
Small arms ammunition captured -----	8,474,425
Land and personnel mines captured -----	1,384
Bunkers destroyed -----	3,318
Vehicles destroyed or captured -----	178

In the face of these figures, how can critics of the President dispute the fact this operation was needed, was successful, and will save American lives as well as shorten this war?

Mr. President, while the general thrust of this amendment argues for U.S. detachment from Cambodia, its provisions go much further. A brief examination of the amendment clearly supports this fact.

In paragraph 1 the amendment prohibits "the retaining of United States ground forces in Cambodia." This simply would prevent the use of American forces in Cambodia for any purpose at any time. It is unwise to tell the Commander in Chief and the military leaders in the field that the enemy operating from across the street can come over and attack you, but you cannot cross the street to his side in self-defense. There is no clear line defining this border and the present Cambodian Government is opposed to the use of their territory by North Vietnam as a military base to launch attacks against a friendly neighbor. President Nixon has described the Cambodian operation as limited in scope, and he predicts withdrawal of all our forces by July 1.

The President also stated any further operations into Cambodia to destroy the

Communist sanctuaries there will be conducted by the South Vietnamese. However, suppose a South Vietnamese force of several thousand should make a raid into the sanctuary areas of Cambodia and should be trapped and threatened with annihilation. This amendment would tie the hands of the President and the military leaders in such a situation to the extent they would be unable to launch a rescue operation should it be required.

Further, who is to say that the present Cambodian Government will not collapse and thereby open Cambodia to unrestricted use by the North Vietnamese? In such an event should we prevent the President from striking massive build-ups of enemy troops who are poised to thrust into South Vietnam and kill American soldiers remaining there? I will not be a party to such a restriction.

In paragraph 2 of the amendment the United States is prohibited from "paying compensation or allowances of, or otherwise supporting, directly or indirectly, any person in Cambodia who, first, furnishes military instruction to Cambodian forces; or second, engages in any combat activity in support of Cambodian forces."

Mr. President, the committee report on the Military Sales Act to which this amendment is affixed, states the purpose of this paragraph is to prohibit involvement of the United States in support of the Cambodians through the use of advisers or military instruction.

The President has already made it clear that such action is not presently necessary or desired. Furthermore, the Cambodian Government has not requested such support. Nevertheless, if the safety of our remaining forces in Vietnam would be enhanced by such action it seems unwise to me for the United States to telegraph to the world it would not undertake any steps in sanctuaries which threaten our fighting men in South Vietnam.

Paragraph 3 of the Cooper-Church amendment prohibits the United States from "entering into or carrying out any contract or agreement to provide military instruction in Cambodia, or persons to engage in any combat activity in support of Cambodian forces."

This paragraph could bring into question the legality of our support to the South Vietnamese Government should they decide their national security would be strengthened by providing military instruction or support to the Cambodians. These two countries are fighting the same enemy, the North Vietnamese, so why should the South Vietnamese be denied the right to work with their allies against a common enemy?

The Foreign Relations Committee report on this paragraph states its purpose is to "prohibit the United States from doing indirectly what cannot be done directly," such as paying for the services of "mercenaries or others who, without this provision, could be brought in to aid the Cambodian forces."

Mr. President, I submit we are supporting the South Vietnamese, and if their security is threatened by North Vietnamese forces in Cambodia, why

should we withdraw our aid if they find it necessary to strike the enemy sanctuaries there as is presently being done? Such an action by the South Vietnamese would surely aid the Cambodians, and this paragraph apparently would prevent any forces supported by the United States from aiding the Cambodians.

If the South Vietnamese deem it necessary to their own security to work with the Cambodian forces in defeating a common enemy, why should the United States stand in their way? That is what the whole Vietnamization program is about—allowing the people of these threatened and invaded countries to fight their own wars as best they can.

Finally, paragraph 4 raises another serious question. As stated in the amendment, it would prohibit "supporting any combat activity in the air above Cambodia by U.S. air forces except the interdiction of enemy supplies or personnel using Cambodian territory for attack against or access into South Vietnam."

In connection with this paragraph I raise this question: Who is to say where the North Vietnamese weapons of war are headed and for what use? Are these supply movements against the South Vietnamese or the Cambodians?

Mr. President, if we pass this amendment it will undermine the President in carrying out his constitutional duty to do his utmost to provide for the protection of our fighting men. Its passage would wreck any chance we might have left to obtain a just solution in South Vietnam by peaceful negotiations.

Finally, passage of this amendment would be met by jubilation in Hanoi, Moscow, Peking, and other Communist capitals throughout the world, as it would signal the waving of a white flag to the forces of tyranny and oppression.

Surely the Members of this body must realize that passage of this amendment would tie the hands of the President and Commander in Chief in many crucial areas which might not even be visualized in this debate. Its passage could deny him options which at some later time might be critical to the safety of our remaining forces in South Vietnam.

The Senate might be interested in knowing that during the War Between the States President Lincoln's conduct of the war did not always meet with favor from the Congress. As a result the Congress established a committee in January 1862, known as the Committee on the Conduct of the War.

This committee told President Lincoln how to manage the war, and there was considerable political meddling in military affairs. In his book titled "Lincoln or Lee," Author William Dodd wrote the committee "hounded the President" on the conduct of the war despite the great burdens on the President at that time.

Mr. President, we should avoid any such parallel in these modern times. The people of this country elected President Richard Nixon Commander in Chief in 1968. In 1972 they will have an opportunity to approve or disapprove of his conduct while in office. It would be nothing less than tragic if the legislative branch tries to take upon itself the dictating of military decisions clearly within the purview of the President.

Let us not make the U.S. Senate a war room from which we dictate tactics and strategy to a Commander in Chief who has pledged to Vietnamize this war. He has kept every pledge made concerning Vietnam. Some 150,000 of our troops have been successfully withdrawn and another 150,000 will be out by next spring.

The previous administration kept saying the war would end soon. President Nixon has made no such pledge, but he has pledged to gradually reduce our involvement. He does not desire an expansion of the war. He favors the opposite. It would be a tragic mistake to tie his hands and proclaim to the enemy that which he has been unable to win on the battlefield may now be won in the United States.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "President's War Power Threatened," written by David Lawrence and published in the Washington Evening Star of May 13, 1970.

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

[From the Washington (D.C.) Evening Star, May 13, 1970]

PRESIDENT'S WAR POWER THREATENED
(By David Lawrence)

For the first time in American history, the Senate Foreign Relations Committee has ignored not only the spirit but also the letter of the Constitution. It has approved an amendment to a bill which, if accepted by the Senate and the House, would deprive the commander-in-chief of the armed forces—namely, the President—of his power to conduct military operations. In the midst of a war, a congressional committee recommends a law to withhold funds unless its methods and restrictions are followed.

The principle is important to the security of the United States, which has joined with other countries—twice in Europe and twice in Asia—to prevent communism from taking over small countries and eventually dominating the free world.

By a vote of 9 to 4, the Senate committee has begun to say to the President that no matter what contingencies may arise, he must pursue a specified course with respect to Cambodia. He is being told to follow the rules outlined by the committee in connection with operations that the President feels are necessary to protect the remaining American troops in South Vietnam. Other senators are proposing modifications, and administration supporters are suggesting some, too.

Assistant Secretary of State David M. Abshire, in a letter to the committee, said that, while the amendment reported out by the committee coincides with the intention of the President concerning the limited role of American forces in Cambodia, "we do not consider it desirable that actions of the commander-in-chief should be subject to statutory restrictions."

Nobody knows just what the North Vietnamese may do after a substantial number of American combat troops have been withdrawn from South Vietnam. There is a possibility that attacks will be launched from Laos in Cambodia and North Vietnam, and that the South Vietnamese will need all the help they can get in thwarting them. The President, as commander-in-chief, needs a free hand in dealing with military contingencies. This has always been the rule.

The amendment voted by the Senate Foreign Relations Committee would bar not only the use of U.S. combat troops in Cambodia but the employment of American advisers and instructors. The President, however, has to look at the problem on a long-range basis.

He must be sure that the American troops who are left in Vietnam for the time being are not threatened by any major offensive, for this could mean the loss of many lives.

Nixon has said that by July 1 our troops will be out of Cambodia. The enemy has not started any offensives that could interfere with such a decision, but, in a war, nobody knows when or from what direction an attack may come. This is why the commander-in-chief must have the widest discretion in the use of troops and equipment.

Interference by Congress in the actual operation of the armed forces is a serious thing at any time. But nowadays the Communists can derive much encouragement from such a situation. They may feel inclined to take chances on the theory that the President will not dare to return any troops to Vietnam once they have been removed. A big assault might therefore be launched by Hanoi against the remaining Americans and the South Vietnamese after a major part of the U.S. forces have been withdrawn.

There has been plenty of opposition in Congress by isolationists before wars began. But during a war no attempts have been made actually to impair military movements on the use of armies or navies. This has been left to the judgment of the commander-in-chief.

It may be that if a constitutional convention is called some day, as has been proposed in recent years, a new amendment will be offered to restrict the powers of Congress so that there can be no possible right to interfere with the flow of appropriations necessary to maintain a military operation in the midst of a war. For once the commander-in-chief has committed troops in an expedition designed to thwart an international enemy like the Communists and to prevent eventual attacks on the United States itself, the power to deal instantly with developments must be, as heretofore, within the discretion of the President.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW, AND RECOGNITION OF SENATOR STENNIS AFTER REMARKS OF SENATOR COOK

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on tomorrow, at the conclusion of the remarks of the able Senator from Kentucky (Mr. Cook), there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes; and that immediately following the transaction of routine morning business, the unfinished business be laid before the Senate, and that the able junior Senator from Mississippi (Mr. STENNIS) be then recognized for not to exceed 1 hour.

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

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 856. An act to provide for Federal Government recognition of and participation in international expositions proposed to be held in the United States, and for other purposes; and

S. 2999. An act to authorize, in the District of Columbia, the gift of all or part of a human body after death for specified purposes.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1970

Mr. BYRD of West Virginia. Mr. President, I ask that the Chair lay before the Senate the message from the House of Representatives on House Joint Resolution 1232.

The PRESIDING OFFICER laid before the Senate the joint resolution (H.J. Res. 1232) making further continuing appropriations for the fiscal year 1970, which was read twice by its title.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the joint resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BYRD of West Virginia. Mr. President, I have been asked by the able Senator from Louisiana (Mr. ELLENDER), who is the acting chairman of the Senate Appropriations Committee, and who is presently presiding over a meeting of the Appropriations Committee, to present this joint resolution to the Senate. It has been cleared with the minority. As I understand it, there is no objection from the minority to the consideration of this matter at this time.

That being the case, I shall proceed with a brief statement which was prepared by Senator ELLENDER, and which he has asked that I read in his stead.

Mr. President, this joint resolution is absolutely necessary in order to avoid payless pay days for Government employees and the interruption of veterans' readjustment benefit payments.

The second supplemental appropriation bill, 1970, passed the House of Representatives on May 7 and it was received and referred in the Senate on Monday, May 11. The President has submitted additional budget estimates to the Senate for consideration in connection with this appropriation bill, and these budget estimates were filed at the desk here in the Senate on May 11. It is obvious that the Committee on Appropriations is going to have to hold additional hearings to give appropriate consideration to this bill. Consequently, the bill cannot be considered on the floor of this body in the very near future. The bill as it passed the House provides funds for pay increases and also for veterans' readjustment benefit payments.

Senators will recall that salaries of Government employees were increased effective July 1, 1969. In addition, there was a 6-percent retroactive pay increase effective generally on December 27, 1969. None of the appropriation bills which were enacted into law for fiscal year 1970 provided funds to finance these pay increases, but the increased payments have been made to personnel throughout the fiscal year, as authorized, for these two pay increases. As a result, practically the entire Federal Government will be out of funds at some time in the near future. The first agency to be affected is the Bureau of Commercial Fisheries in the Department of the Interior, which the committee has been

May 14, 1970

advised will not be able to meet its payroll on May 13. Under the circumstances, it would appear that orderly procedure would require the Senate to consider this continuing resolution at this time.

No new employees can be employed under the resolution, nor can any new contracts or programs be instituted. Likewise, it does not permit the expansion of any continuing program. It is designed merely to avoid disruption of the Federal Government. The resolution does not make any appropriations; it merely authorizes the utilization of funds which are already contained in the second supplemental appropriation bill as it passed the House of Representatives. Further, a provision in the resolution reads: "All expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization" provided by the second supplemental appropriation bill.

Mr. President, I urge the adoption of this joint resolution.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 1232) was read the third time, and passed.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate resumed the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. GORE. Mr. President, when, last year, the Senate adopted an amendment to prohibit the use of U.S. ground troops in Laos and Thailand, it did not occur to the Senator from Tennessee nor to other Senators with whom I have spoken that it would be advisable to include the small, neutral country of Cambodia in that prohibition.

We now see that it might have been very advisable to do so. Indeed, it now appears that, except for that amendment, Laos might have been invaded.

However that be, we are well advised, now, of the unprecedented interpretation given by President Nixon to the Constitution with respect to the war-making powers. So I offer a substitute amendment to prohibit the use of funds herein authorized for invasion of either Laos or China. I send the amendment to the desk, and ask that it be printed and lie on the table.

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, a motion will be made shortly to adjourn until tomorrow.

On tomorrow, the Senate will convene at 11:30 a.m. Immediately after the disposition of the reading of the Journal, the able Senator from Kentucky (Mr. Cook) will be recognized for not to ex-

ceed 30 minutes, following which there will be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

Upon completion of the routine morning business, the unfinished business will be laid before the Senate, at which time the able Senator from Mississippi (Mr. STENNIS) will be recognized for not to exceed 1 hour.

ADJOURNMENT UNTIL 11:30 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11:30 o'clock tomorrow morning.

The motion was agreed to; and (at 4 o'clock and 49 minutes p.m.) the Senate adjourned until Friday, May 15, 1970, at 11:30 o'clock a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 14, 1970:

U.S. PATENTS OFFICE

Robert Gottschalk, of New Jersey, to be First Assistant Commissioner of Patents.

Lutrelle F. Parker, of Virginia, to be an examiner in chief, U.S. Patent Office.

U.S. MARSHAL

Donald D. Hill, of California, to be U.S. marshal for the southern district of California for the term of 4 years.

national priorities be realigned to give first preference to meeting the domestic needs of our own people in such fields as education, housing, health, public safety, transportation, environmental improvements and recreation, and to removing the injustices which are responsible for the widening divisions in our society; therefore

Resolved, by the Council of the City of Philadelphia, That we hereby memorialize the President and the Congress of the United States to act immediately to end the tragic waste of American lives and resources in Vietnam so as to give priorities to meeting the domestic needs of our own people.

Resolved, That certified copies of this Resolution be forwarded to the President of the United States, Vice-President, Speaker of the House, President Pro Tempore of the Senate, United States Senators from Pennsylvania and Congressmen from Philadelphia, as evidence of the sentiments of this legislative body.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate resumed the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be treated as original text for the purpose of further amendment.

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

Mr. FULBRIGHT subsequently said: Mr. President, a few minutes ago I asked unanimous consent that the committee amendments be agreed to en bloc.

The distinguished Senator from Michigan (Mr. GRIFFIN) was under obligation to object and was in the process of objecting but he did not catch the eye of the Presiding Officer in the chair, who announced that the amendments were agreed to en bloc.

I now would like to ask unanimous consent that that unanimous-consent agreement be rescinded.

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

Mr. GRIFFIN. Mr. President, I want to thank the Senator from Arkansas very much for his kindness and cooperation in this regard. The Chair, ordinarily, would have asked, "Is there objection?" under those circumstances, and would then have said, "Without objection, it is so ordered."

Both the Chair and the Senator from Michigan now realize that I should have objected. I was under the obligation to object, and I appreciate very much that the Senator from Arkansas realizes that.

If, on tomorrow, he wants to renew his request, after I have had an opportunity to discuss it with some of my colleagues, then I think it will be appropriate.

Mr. FULBRIGHT. Let me reassure the Senator from Michigan it is sort of a tradition around here. I had no idea there would be any objection, or I would have objected myself. I do not believe that we can operate the Senate on that kind of inadvertence.

Mr. President, it is with both a sense of great reluctance and a feeling of

guarded accomplishment that I present this bill to extend the foreign military sales program to the Senate.

My reluctance derives from the fact that I take no pride in asking my colleagues to approve the portion of this bill which contributes to the spread of conventional military hardware. On the other hand, there is a feeling of accomplishment because of the committee's adoption of a number of significant amendments, including the prohibition on further involvement in Cambodia and a number of restrictions on the military aid and sales programs.

The basic purpose of this bill is to authorize continuation of the military credit sales program for fiscal years 1970 and 1971.

It would authorize credit sales of \$300 million in military arms and equipment for each of those years and would authorize the appropriation of \$250 million each year to finance the sales. The sales financed under this program are made primarily to less developed countries. Credit sales to rich countries are generally financed either through commercial channels or the Export-Import Bank.

But the credit sales program must be viewed in the context of the total picture of U.S. arms exports. The Department of Defense estimates that in the current fiscal year the United States will sell abroad a total of about \$1.9 billion in arms and military equipment. Of that, \$300 million will be financed under authority of the Foreign Military Sales Act. In addition to the sales volume, the United States will supply \$392 million in arms through the military grant aid program and will have an additional \$166 million in surplus arms and equipment—valued at one-fourth of acquisition cost—to give away. Thus, the United States will sell or give away nearly \$2.5 billion in military materials this fiscal year.

I point out also that there are some \$9 billion worth of surplus arms and military equipment now available for the Department of Defense to give away—even to Cambodia—without any congressional limits. And the total is mounting rapidly as U.S. forces are withdrawn from Vietnam. In addition to the excess arms, the funds available under the regular grant aid and sales program, the President may, under section 506 of the Foreign Assistance Act, give other nations up to \$300 million of arms and equipment out of the Department of Defense's stock if he considers it vital to our national security. The sources of U.S. arms are many and the volume is vast. The credit sales program authorized by this bill is only the tip of the iceberg.

All of these programs add up to the fact that the United States is the world's largest producer and exporter of military equipment. And in this global context, I call attention to the grim reminder that for the period from 1964 to 1969 total military outlays around the world amounted to over \$1 trillion. According to the Arms Control and Disarmament Agency, this sum when measured against available economic resources exceeds the value of all goods and services produced in the United States in the past year; it is more than 2 years' income for the

world's developing countries in which 2½ billion people live; and it is equal to as much money as was spent by all governments on all forms of public education and health care in the 6-year period.

Few would disagree that this is a pretty sad commentary on the priorities set by governments around the world. But the future is even more bleak. Drawing on a recent United Nation study, the Christian Science Monitor graphically reported recently:

If one silver dollar coin was dropped every second, it will take 126,000 years to exhaust the amount of money that will be spent on world armaments in the next 10 years.

As a practical matter there is little that the committee can do to change the outlook for that forecast. But it did act to try to control the contribution the Pentagon planned to make toward making the prediction a reality. It made a number of substantive changes that may help to stem the flow of American weapons abroad. I would like to describe briefly the most significant actions taken.

Nothing was more indicative of the Pentagon's blatant disregard for the intent of Congress than its giving away of some \$140 million in surplus military equipment to Taiwan following Congress' refusal to appropriate \$54.5 million in additional military aid above the amount authorized. As a result of this attempt to increase appropriations over the authorization level, and the Pentagon's attempt to make an end run around the Congress by using the surplus program, two amendments have been added to this bill to prevent such developments in the future.

The first, dealing with the excess property issue, restricts the Department of Defense's authority by imposing a \$35 million ceiling on the amount of surplus military arms or equipment that may be given away in any fiscal year. A portion of the original cost of any surplus material given away above that amount would be deducted from the funds available for grant military aid.

The second, relating to appropriations, simply states that any appropriation above the amount authorized cannot be used and that any appropriation for which there is not an authorization cannot be expended. This amendment writes into law the principle, supported by the Senate in two votes last year, that the appropriation of funds which are not authorized is bad practice and, if carried to extremes, could seriously undermine the authority of all legislative committees.

In addition to these two amendments, the bill contains provisions which require: that recipients of military grant aid, including surplus equipment, pay in their local currency 50 percent of the value of the grants, the funds to be used to meet U.S. obligations in the country and to finance educational and cultural exchange programs; that the United States not approve requests by foreign countries to transfer military equipment, supplied under the grant or sales program, to any country to which the United States would not supply the arms directly; that the President be given explicit control over successive transfers of military equipment supplied under

Government-financed programs; and that sales or grants of the International Fighter aircraft, except for those given to Vietnam or sold through commercial channels, be authorized under the regular military grant aid or sales programs.

Mr. President, the fact that the committee felt compelled to adopt these restrictions serves only to emphasize the failure of policies which have resulted in making the United States the world's leading arms merchant. This policy, which places such great reliance on arms as a means of solving problems of human and national relationships evidences a type of national illness.

It is the kind of illness that has spread deceptively and insidiously for many years and now permeates our entire body politic.

It is an illness that blinds both policy-makers and public to our Nation's basic traditions and values to produce a kind of "Doublespeak" where lives are saved by sending more men into combat; villages are destroyed in order to save them; and risks for peace are taken by buying more weapons of destruction.

It is the kind of illness that has drawn us into Vietnam; that has nurtured our adventure in Laos; and that has brought us to the brink of a far wider war throughout Indochina.

In short, it is the kind of illness that prostitutes and distorts. It is the kind of illness that must be cured if we are to ever achieve peace abroad or at home.

The Church-Cooper-Aiken-Mansfield amendment, to prevent any further U.S. involvement in Cambodia, is a small, but important step in the recovery process.

Last year, by a vote of 70 to 16, the Senate adopted the national commitments resolution expressing the sense of the Senate that "a national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the U.S. Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment." By its action of April 1970 in initiating hostilities within the territory of Cambodia without the consent or even the prior knowledge of Congress or any of its committees, the executive branch has shown disregard not only for the national commitments resolution but for the constitutional principles in which that resolution is rooted. In the wake of recent events, there is reason to reassert, with renewed conviction, a statement made in the Foreign Relations Committee's report of April 16, 1969, on the national commitments resolution:

Our country has come far toward the concentration in its national executive of unchecked power over foreign relations, particularly over the disposition and use of the Armed Forces. So far has this process advanced that, in the committee's view, it is no longer accurate to characterize our Government, in matters of foreign relations, as one of separated powers checked and balanced against each other.

The notion that the authority to commit the United States to war is an Executive prerogative, or even a divided or uncertain one, is one which has grown up only in recent decades. It is the re-

sult primarily of a series of emergencies or alleged emergencies which have enhanced Executive power, fostered attitudes of urgency and anxiety, and given rise to a general disregard for constitutional procedure.

In fact, there was neither uncertainty nor ambiguity on the part of the framers of the Constitution as to their determination to vest the war power exclusively in the Congress. As Thomas Jefferson wrote in a letter to Madison in 1789:

We have already given in example one effectual check to the Dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.

As to the powers of the President as Commander in Chief, Alexander Hamilton, an advocate of strong executive power, wrote in *Federalist No. 69*:

The President is to be commander in chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the King of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and admiral of the Confederacy, while that of the British king extends to the declaring of war and to the raising and regulating of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature.

The present administration's view of the President's power as Commander in Chief is almost the polar opposite of Hamilton's. In its comments of March 10, 1969, on the then pending national commitments resolution, the Department of State made the following assertion:

As Commander in Chief, the President has the sole authority to command our Armed Forces, whether they are within or outside the United States. And, although reasonable men may differ as to the circumstances in which he should do so, the President has the constitutional power to send U.S. military forces abroad without specific congressional approval.

Like a number of its predecessors, the present administration is basing its claim to war powers on either a greatly inflated concept of the President's authority as Commander in Chief, or in some vague doctrine of inherent powers of the Presidency, or both. Another possibility is that the matter simply has not been given much thought.

Whatever the explanation may be, the fact remains that the Executive is conducting a constitutionally unauthorized, Presidential war in Indochina. The commitment without the consent or knowledge of Congress of thousands of American soldiers to fight in Cambodia—a country which has formally renounced the offer of protection extended to it as a protocol state under the SEATO Treaty, and to which, therefore, we are under no binding obligation whatever—evidences a conviction by the Executive that it is at liberty to ignore the national commitments resolution and to take over both the war and treaty powers of Congress when congressional authority in these areas becomes inconvenient.

It is noteworthy that, in his address to the Nation of April 30 explaining his

decision to send American troops to Cambodia, the President did not think it necessary to explain what he believed to be the legal ground on which he was acting, other than to refer to his powers as Commander in Chief of the Armed Forces. Equally noteworthy was the President's repeated assertion in his press conference of May 8 that he—and he alone—as Commander in Chief was responsible for the conduct of the war and the safety of our troops. This sweeping assertion of the President's authority as Commander in Chief amounts to the repudiation of those provisions of article I, section 8 of the Constitution, which empower Congress not only to "declare war" but to "raise and support armies," "provide and maintain a Navy," and "make rules for the Government and regulation of the land and naval forces." It is true, of course, that the present administration's attitude in this area hardly differs from that of its predecessors—except that preceding administrations took no special pride, as the present administration does, in adherence to a "strict construction" of the Constitution.

The Senate's adoption of the Church-Cooper-Aiken-Mansfield amendment will be a significant step toward restoring the health of our constitutional system of checks and balances. Both its purpose and language are simple and straightforward. Its purpose is simply to prevent involvement by the United States in a wider war in Asia by insuring that our forces are withdrawn from Cambodia and that the United States does not end up fighting a war in behalf of Cambodia. I will not go into the several points of the amendment since the sponsors of it will discuss its details in their presentations.

Mr. President, I believe that, with the amendments adopted by the committee, this is a good bill and I hope that the Senate will approve the committee's recommendations.

AN EXPLANATION OF THE COOPER-CHURCH AMENDMENT

Mr. CHURCH. Mr. President, first, I want to commend the distinguished chairman of the Committee on Foreign Relations for the excellent explanation he has made of the military sales bill, as recommended to the Senate by the committee, and the endorsement he has given to the Cooper-Church amendment, which I should like to explain further at this time.

The United States is still stuck fast in the longest war of its history in the former French properties known as Indochina. Three Presidents, representing both political parties, have been unwilling to put an end to the American involvement in this Asian war.

Throughout this protracted period, the Congress of the United States has permitted each President to exercise blank-check powers. In so doing, we have shrunk from the use of our own authority under section 8 of article I of the Constitution, which vests in Congress the purse strings, together with the power to declare war, to raise and support armies, to provide and maintain a navy, and to make rules for the government and regulation of the land and naval forces. Our failure to make effective use

of any of these powers, while the war was passed from one President to another, is one for which historians may judge us harshly.

Within the past 2 weeks, another front has been opened in this interminable war—again as the result of a Presidential decision taken without so much as a bow to Congress. The dispatch of American troops into Cambodia, though presently limited in scope, could easily become the first step toward committing the United States to the defense of still another government in Southeast Asia. Sobering as this specter should be, in light of our experience in Vietnam, it nonetheless presents Congress with a historic opportunity to draw the limits on American intervention in Indochina. This is the purpose of the amendment that Senator COOPER and I, joined by Senators MANSFIELD and AIKEN, urge the Senate to approve. If enacted into law, it would draw the purse strings tight against a deepening American involvement in Cambodia.

There is a precedent for what we are asking the Senate to do. It lies in the action taken last December when, you will recall, the Senate adopted overwhelmingly a modification I proposed to an amendment offered by Senators COOPER and MANSFIELD to the military appropriations bill for fiscal year 1970. It provided that "none of the funds appropriated by this act shall be used to finance the introduction of American ground combat troops into Laos or Thailand." There is reason to believe that this amendment, which became law, had a restraining effect on our newest venture, because the President is said to have rejected recommendations that the current operation include Laos as well as Cambodia. To have done otherwise, might well have placed the President in the untenable position of breaking the law.

We now seek to do for Cambodia what our earlier amendment did for Laos. But since American forces have already entered Cambodia, the amendment we propose would set limits on their intervention, prevent them from remaining in Cambodia, and preclude any military entanglement on our part with the government of that country.

Unquestionably, Congress has the power to accomplish these objectives. But this power, so little used in recent years, amounts to so much idle talk, unless a majority proves willing to invoke it. Our amendment is drafted in such manner as to invite, and offered in the hope that it will attract, majority support.

Some have argued that it is useless for the Senate to legislate limits, when the House of Representatives has already backed away from them. I do not agree. Nor do I believe the Senate should be put off on such a pretext. If the amendment were affixed to a House passed bill, such as the Military Sales Act now pending before the Senate, and then strongly backed by the Senate as a whole, the vote would provide our conferees with a mandate to insist that the amendment be retained in any final version of the bill.

The amendment itself is a realistic one. It is no exercise in futility; it does not attempt to undo what has been done. Instead, it is addressed to the immediate need of preventing the United States from bogging down in Cambodia, and from committing itself to the defense of another Asian government on a new front.

It does this by: First, denying funds for the retention of American forces in Cambodia; second, prohibiting funds for the instruction of Cambodian military forces or for hiring mercenaries to fight for Cambodia; and, third, forbidding the use of any appropriation for conducting combat activity in the air above Cambodia in support of Cambodian forces.

In sum, the amendment is directed against those very activities which led to our entrapment in Vietnam. Its adoption would erect a legal barrier against further penetration of American forces into the jungles of Southeast Asia and help expedite the withdrawal of our troops from Vietnam.

Mr. President, legislative action is needed now, not only to make certain that the avowed perimeters of our attack upon Cambodian sanctuaries are not exceeded, but also to bar the beginnings of an escalating military assistance program to the new Cambodian regime. We owe nothing to the generals who have seized power in Phnom Penh. We have made them no promises. For once in our lives, we stand unfettered by any treaty obligations. We have no duty to furnish them with arms, let alone to come to their defense.

Still, it takes no exercise of the imagination to forecast, now that the Cambodian boundary has been breached and our gunboats ply the Mekong, that pressures will soon develop for sending an American military mission to Phnom Penh which, in turn, would generate a whole set of American obligations to the new Cambodian regime. This very sequence of events led us ever deeper into the morass in Vietnam. We must not travel down that tragic trail again.

This war has already stretched the generation gap so wide that it threatens to pull the country apart. The new generation never saw in Vietnam the demons that our generation perceived. Unlike American Presidents, who were mesmerized by the "lessons" of World War II, our brightest young people never believed that Ho Chi Minh was Adolf Hitler in disguise, or that our failure to send in our own troops to fight for the government we subsidized in Saigon would amount to another "Munich." They knew that Vietnam really had nothing to do with the security of the United States, the safety of the American people, or the well-being of our society. And so they soon came to view the war as an unwarranted intrusion on our part in a Vietnamese struggle which we should never have made our affair.

It does no good to tell these young people that our "will and character are being tested," that we shall not be humiliated or accept our first defeat. They do not believe a mistaken war should be won. They believe it should be stopped. That, for them, is the path of honor.

Little wonder, then, that our generation has lost communication with young America. We move in two different worlds; we speak two different tongues. We would pass each other by, like two ships in the night, were it not for the collision course we oldsters have charted: we keep drafting them to fight our war. We persist in that course, even at the price of alienating millions of young Americans.

The deep disillusionment of college students in their country and its institutions has its roots in Vietnam. When the power of the State is used to force young men to fight a war they believe to be wrongful, under penalty of imprisonment if they refuse, the seeds of sedition are sown. We now reap the bitter harvest, manifested in the angry uprisings on campuses from coast to coast. Whenever the limb is shaken, all the leaves tremble. Once the moral authority of the Government is rejected on an issue so fundamental as an unacceptable war, every lesser institution of authority is placed in jeopardy. Every sacred principle, every traditional value, every settled policy becomes a target for ridicule and repudiation. Cauldrons of anarchy soon begin to boil.

So it has happened that our country is coming unstuck. The crisis in our land, the deepening divisions among our people, the festering, unattended problems at home, bear far more importantly upon the future of the Republic than anything we have now, or have ever had, at stake in Indochina. That is why the time has come for Congress to draw the line against an expanded American involvement in this widening war.

Too much blood has been lost, too much patience gone unrewarded, while the war continues to poison our society. If the executive branch will not take the initiative, then the Congress and the people must.

LIST OF COSPONSORS

Mr. President, when the amendment was originally offered, Senators MANSFIELD and AIKEN joined Senator COOPER of Kentucky and myself in recommending it to the Committee on Foreign Relations. The committee adopted the amendment by a vote of 9 to 5 and affixed it to the Foreign Military Sales Act now pending before the Senate.

Since the committee took that action, many other Senators have asked to be listed as cosponsors of the amendment.

Mr. President, I ask unanimous consent that their names be affixed as cosponsors.

The full list of cosponsors is:

Senator AIKEN of Vermont; Senator BAYH of Indiana; Senator BROOKE of Massachusetts; Senator CASE of New Jersey; Senator CHURCH of Idaho; Senator COOPER of Kentucky; Senator CRANSTON of California; Senator FULBRIGHT of Arkansas; Senator GOODELL of New York; Senator HARRIS of Oklahoma; Senator HART of Michigan; Senator HATFIELD of Oregon; Senator JAVITS of New York; Senator MANSFIELD of Montana; Senator MATHIAS of Maryland; Senator MONDALE of Minnesota; Senator MOSS of Utah; Senator PEARSON of Kansas; Senator PELL of Rhode Island; Sen-

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ator PROXMIER of Wisconsin; Senator RIBICOFF of Connecticut; Senator SAXE of Ohio; Senator SCHWEIKER of Pennsylvania; Senator SYMINGTON of Missouri; Senator TYDINGS of Maryland; Senator WILLIAMS of New Jersey; Senator YOUNG of Ohio; Senator MCGOVERN of South Dakota; Senator HUGHES of Iowa; and Senator GRAVEL of Alaska.

Mr. President, as of now, the total number of Senators sponsoring the amendment is 30.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. CHURCH. Mr. President, I also ask that a text of the amendment in its revised form, as reported from the Committee on Foreign Relations, be printed at this point in the RECORD.

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

CHURCH-COOPER AMENDMENT

SEC. 7. The Foreign Military Sales Act is amended by adding at the end thereof the following new section:

"SEC. 47. Prohibition of assistance to Cambodia.—In order to avoid the involvement of the United States in a wider war in Indochina and to expedite the withdrawal of American forces from Vietnam, it is hereby provided that, unless specifically authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of—

"(1) retaining United States forces in Cambodia;

"(2) paying the compensation or allowances of, or otherwise supporting, directly or indirectly, any United States personnel in Cambodia who furnish military instruction to Cambodian forces or engage in any combat activity in support of Cambodian forces;

"(3) entering into or carrying out any contract or agreement to provide military instruction in Cambodia, or to provide persons to engage in any combat activity in support of Cambodian forces; or

"(4) conducting any combat activity in the air above Cambodia in support of Cambodian forces."

Mr. CHURCH. Mr. President, I am pleased to share with my colleagues a petition signed by students from my home State of Idaho attending Harvard University who protest against the U.S. invasion of Cambodia.

I ask unanimous consent that this petition, together with the names of the students who signed it, be printed at this point in the RECORD.

There being no objection, the petition with list of names, was ordered to be printed in the RECORD, as follows:

MAY 8, 1970.

HONORABLE FRANK CHURCH: We, Idaho students attending Harvard University, wish to register our opposition to President Nixon's policy in Southeast Asia. We strongly feel that the immediate, complete withdrawal of United States troops from Indochina is essential for the fulfillment of our national goals. Therefore, we urge you to take any steps necessary to disengage the United States from this unfortunate war.

Mike E. Brandeberry, Boise, Tom Ambrose, Wendell, Daniel F. Brandeberry, Boise, Irene Kelly, Jerome, Ralph J. Coates, Buhl, Craig Ipsen, Montpellier, Matthew Berman, Moscow, Larry D. Bishop, Boise, Del Ray Maughan, Boise, Robert T. Horten, Coeur d'Alene, Robert Stevens, Pocatello, Julian R. Birnbaum, Caldwell, Marie Kelly, Jerome, Melanie York, Boise, Richard Smith, Caldwell, Steve Mike-sell, Boise.

Mr. CHURCH. Finally, Mr. President, an excellent and perceptive article appeared in the New York Times of Sunday, May 10, 1970, written by the distinguished columnist Harrison E. Salisbury.

In the article Mr. Salisbury points out that the initial political reaction to our movement into Cambodia has been to draw the Soviet Union and Red China closer together, the first time this has happened in a number of years.

A few days ago, when members of the Senate Foreign Relations and the House Foreign Affairs Committees attended a briefing in the White House on the Cambodian venture, I came away convinced that the President of the United States had launched a large gamble for small stakes.

After listening closely to the President's explanation and to the answers he gave to the many questions asked, I felt that if he were to win the gamble, he would gain no more than a temporary removal of certain border bases to which the enemy would soon return; if he lost the gamble, the enemy reprisals might well take the form of a Communist take-over of Laos or Cambodia or both, and beyond Indochina, the repercussions might tend to resolidify the fractured Communist world. That indeed seems to be what is happening.

Let me read to the Senate portions of this very perceptive article by Mr. Salisbury. He points up what very large losses may be entailed for the United States as a result of a military venture which, at best, can produce only the most limited and temporary of benefits.

Mr. Salisbury writes:

The United States action in Cambodia has touched off a swift Chinese diplomatic offensive which is radically altering Sino-Soviet-American relationships and may open the way to temporary easing of Sino-Soviet tensions.

The Chinese moves were undertaken at a moment when the Sino-Soviet conflict had touched a new height of violence. They came in the face of major new Soviet troop movements to the disputed frontier with China.

Now, however, as a result of the personal intervention of Chairman Mao Tse-tung the principal Soviet diplomatic negotiator, Deputy Foreign Minister V. V. Kuznetsov, has returned to Peking amid rumors that Moscow and Peking may be willing to lay aside, in part and for the time being, their bitter quarrel.

Premier Chou En-lai moving with remarkable deftness, has managed to seize for China the leadership in the Communist response to the United States action. He has managed to put China at the head of an emerging coalition of Indochinese powers and may have stalemated the Soviet Union in what might have been a new escalation of the Sino-Soviet quarrel.

WARNING TO U.S.

In the process, the Chinese have delivered a low-key warning to the United States that escalation of the war in Indochina might bring about their intervention; made an offer of "volunteers" to Prince Sihanouk (which he graciously declined); mocked the Russians almost completely out of the direct relations with any of the Indochina countries; re-established warmer and closer relations with bristly North Korea; and laid the foundation for a possible "united front" of China, the Indochina states and North Korea against "U.S. aggression."

The consequences to future United States and future Soviet policy of the Chinese diplomatic blitzkrieg may be far-reaching.

The United States is scheduled to meet with Communist Chinese delegates in Warsaw May 20 for a renewal of two-power discussions designed to lead to a new basic American-Chinese relationship. Diplomats now wonder whether the meeting will actually be held. They rate its chances for progress as something less than zero.

At the same time the specter emerged of increasing difficulties with the Soviet Union, particularly in the critical SALT talks under way in Vienna. Premier Aleksei Kosygin himself raised the question of confidence in this connection in his Moscow press conference.

The effect of the United States action on the critical confrontation in the Middle East was still uncertain. One Washington theory was that the President believed a display of "muscle" in Cambodia would deter the Soviet Union from stepping up its military support of Egypt. The validity of this hypothesis remains to be tested.

TOUCH OF IRONY

The principal power to suffer in the rapid sequence of events appeared to be the United States. Instead of a diplomatic horizon marked by escalating rhetoric and menacing military moves by the two Communist powers the prospect emerged of a new if shaky "cool" between Moscow and Peking.

An ironic touch was the fact that as of early April Russia and China had come to another derailment in their long, harsh disagreement. Mr. Kuznetsov had been ordered to return to Moscow. New Soviet military units were ordered up to the China frontier. Polemics, suspended since the inception of the Peking talks in late October, had begun again.

The propaganda war took a major turn April 22, the 100th anniversary of Vladimir Lenin's birth, when the Chinese published the most slashing assault they had ever delivered against Moscow—a declaration comparing Party Secretary Leonid Brezhnev to Adolf Hitler, Soviet Russia to Nazi Germany—complete with Nazi racist overtones. They charged Russia with contemplating a Nazi blitzkrieg against China.

Moscow retaliated by spewing into the air waves personal vilification of Chairman Mao Tse-tung, charging him with complicity in the murder of his first wife, the death of his eldest son, and a wide catalogue of crimes and misdemeanors.

But, with the mounting escalation of the United States action in Cambodia, a simultaneous escalation of the Sino-Soviet conflict became increasingly embarrassing to both Peking and Moscow. Neither side was prepared to abandon the deep-rooted quarrel but there was rising urgency to lay it to one side for a while—if possible.

QUARREL PUT ASIDE

Premier Chou En-lai went into action, providing patronage for the Indochina powers conference, promising support and "volunteers" if necessary. On May Day Chairman Mao Tse-tung himself, ignoring Soviet personal attacks, sought out a Soviet diplomat, V. G. Gankovsky, and urged that the Sino-Soviet talks resume.

By week's end the well-oiled propaganda machinery in Moscow and Peking was swinging into line. China attacks on Moscow ceased. Russian propaganda against Peking began to taper off—but did not cease completely.

Moscow was still stung by China's emergence as the chief protecting power in Indochina and by Peking's obvious effort to shoulder Russia aside in that part of the world. But faced with a Chinese *fait accompli* and the critical implications of United States action in Cambodia it seemed that Russia would, for the moment, put aside the China quarrel for the sake of over-all opposition to the United States.

Mr. President, I offer this article as evidence of how much we stand to lose

diplomatically and strategically as a result of the attack we have made into Cambodia. I think that the risks involved for the United States, if it permits itself to be drawn still more deeply into this war, are so immense that we must no longer put off the responsibility we have, as representatives of the people, to assert powers which are vested by the Constitution in the Congress.

The purpose of this amendment is to set the outer limits of American penetration into Cambodia. We take the President of the United States at his word that the present operation is limited in scope, that it is confined to the capture of particular border sanctuaries, and that, as soon as this objective is accomplished, American forces will be withdrawn.

The amendment simply says, in effect, that Congress undertakes to set the outer limits of American involvement in Cambodia. As soon as the bases are captured, as soon as the objectives of the operation are achieved, then no further funds are available for retaining American forces in Cambodia. That is the first objective of the amendment.

The second objective is to lay down a legislative barrier against the kind of escalating military assistance program which, once commenced, can easily lead this country into an entangling alliance with the new regime in Phnom Penh.

We know from our experience in Vietnam that what commences as a limited military aid program can readily expand into a much more extensive program; that small arms soon lead to more sophisticated armaments; and that these weapons, in turn, lead to the necessity for introducing American instructors and advisers who, once committed, create pressures for the final commitment of American combat troops. That was the sequence of events in Vietnam, and we must make certain it does not become the sequence of events in Cambodia.

The adoption of this amendment would prevent this from happening. If future developments were to lead the President to advocate a renewal of our attack upon Cambodian territory, or a more extensive occupation of that country, then he would be obliged to come to Congress, make his case before us, and ask the Congress to lift its prohibition against such an expanded war.

Now, Mr. President, we should have done this a long, long time ago. For too long, we have abdicated away our authority to the President, sitting on our hands hoping the American people would look the other way, while this war has gone on and on, while casualties have mounted inconclusively, until today our involvement in Vietnam has become the longest war of our history and one of the costliest. Still there is no end in sight. The time has come for the Senate to assume its responsibility under the Constitution, drawing outer limits on this latest involvement, and insisting that if the President intends in the future to expand still further our participation in this war, he come back to the Congress, make his case, and ask Congress for the consent that the Constitu-

tion intended us either to grant or to withhold.

I hope in the coming days of debate that we can clearly set forth the constitutional issue involved here. I hope that we can encourage the Senate to adopt this amendment as a proper assertion of congressional authority.

Last December, we took the first step, Mr. President, when the Senate adopted overwhelmingly an amendment of mine, made a part of the military appropriations bill for fiscal year 1970, that prohibited the introduction of American ground combat forces into Laos or Thailand. That represented the first instance, in the whole long course of this war, that Congress had undertaken to use the purse strings to draw a line. At the time, the President said it was in conformity with his own policy. He did not raise questions about undermining his authority as Commander in Chief; he accepted the decision of Congress, as consistent with its responsibility in determining how and where public moneys shall be spent.

No different principle is posed by this amendment. If the earlier amendment was acceptable to the President, it escapes me why this amendment should not be, for each rests upon the right of Congress, under the Constitution, to control the spending of public money, and each is pointed toward the necessity of establishing limits to the American involvement in a wider Indochina war. I think it is the second step, a necessary and logical step to take, in view of the developments of the last 2 weeks, to reassure the American people that Congress is alive and living in Washington, D.C.

So I hope, when the debate has been completed, that the Senate will support the amendment.

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

Mr. CHURCH. I am happy to yield to the Senator from Tennessee.

Mr. GORE. I congratulate the Senator upon a very able address and upon the many praiseworthy efforts he has made in this field.

I wanted to suggest the possibility of an amendment. I do not ask the Senator to give his reaction now, nor do I wish to offer an amendment now, but I would like to call it to his attention. He may wish to think about it, or if he wishes to respond now, fine.

On lines 5 and 6, if we strike the words "expedite the withdrawal of American forces from," and substitute instead, "to facilitate a negotiated peace in," this would make the first clause of the sentence beginning on line 4 read as follows:

In order to avoid the involvement of the United States in a wider war in Indochina and to facilitate a negotiated peace in Vietnam.

What I seek to do by this possible amendment is to draw a clear distinction between "Vietnamization" and a negotiated peace. As the able Senator knows, I have not, from the day Vietnamization was announced, believed that it could work or would work to bring an early peace, to bring an early end to the war. Indeed, I do not believe it is designed to

bring an early end to the war. It is a formula, not to end the war, but to prolong the war. It is a phased withdrawal, having as its purpose sustaining the Thieu-Ky regime in power in Vietnam. "Vietnamization," therefore, is contradictory to and incompatible with a negotiated settlement.

A witness before the Foreign Relations Committee this morning said that only in the past 2 years had priority been given to the ability of the Saigon government to defend itself. Well, I suppose he was talking about defending itself against its own people as well as its neighbors in North Vietnam.

What seems to me should be our top priority is not sustaining Thieu and Ky in power, but achieving a negotiated settlement. In my view, this means a compromised peace based upon a coalition government, or a compromised government, or an agreed government—use whatever term one likes—in Saigon.

It is the purpose of this amendment to draw a distinction between a phased withdrawal—which is "Vietnamization"—and a negotiated peace, which would permit not a long, drawn-out piecemeal withdrawal, but disengagement, a cease-fire, peace, and the bringing of all of our sons home.

Mr. CHURCH. Let me say to the distinguished Senator that, of course, I would give very serious attention to any amendment he might propose. He and I both share the same skepticism about the President's policy of Vietnamization. I agree fully with the Senator from Tennessee that this policy, as it has been explained to us, is not one that will take the United States out of the war in Vietnam, but, rather, one that is designed to keep us in the war for years to come. All that Vietnamization will accomplish is a reduction in the number of American forces—

Mr. GORE. Unilateral reduction.

Mr. CHURCH. Yes, a unilateral reduction in the number of American forces, bringing, according to the President's announced intentions, the total down to about half of what it was at the time that Mr. Nixon became President, from something over half a million men to something close to a quarter of a million men; and those remaining will continue to fight the war. They will continue to give aerial support, artillery support, combat engineer support, logistical support—

Mr. GORE. Infantry.

Mr. CHURCH. Even infantry, to secure our own remaining forces; and they are scheduled to give that support indefinitely, as long as it is necessary to keep them there in order to sustain in power the government in Saigon.

So I agree wholeheartedly that Vietnamization is not an acceptable method for extricating the United States from its involvement in Indochina, but nothing in this amendment is meant in any way to express the approval of the Senate as regards the Vietnamization policy. All that this amendment does is to set the limits on the new American venture in Cambodia, to make certain that we neither bog down in Cambodia nor establish an elaborate military assistance

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program that commits us to the defense of the new regime in Cambodia.

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

Mr. CHURCH. I am happy to yield.

Mr. GORE. Of course, since Vietnamization is the only program we have, other than the recent widening and reescalation of the war, all of us must hope that it will prove successful; but I must say that I have never thought that a unilateral withdrawal, or unilateral reduction, of U.S. forces while the other side increases, augments, builds up, deploys greater and larger forces, could possibly lead to other than a reescalation, which we now have had, or the danger of a slaughter of the American forces remaining there.

After all, how long can one side reduce while the other side increases, without facing a catastrophe?

Obviously, the administration recognized that further reductions would present a hazard. It was inevitable that this would occur. It is inevitable that it will recur, unless it be that, by some unusual change of circumstances, South Vietnam becomes able to master its own situation.

It appears now that a program is underway to "Vietnamize" Cambodia. I am not sure how this is going to turn out.

I wish to draw a clear distinction between a negotiated peace, which is the goal I wish to see achieved, and "Vietnamization," which I am not sure I wish to approve.

The Senator says the proposed resolution does not constitute an approval of Vietnamization. I wish to approve a negotiated settlement. This, it seems to me, should be the first goal. I shall leave this in the RECORD, and we can consider it further.

Mr. CHURCH. I appreciate that. The Senator and I are kindred spirits, and I am confident that it will be possible for us to reach an accord with regard to the intended aim which will fully satisfy the Senator.

Mr. President, I yield the floor.

OPERATION OF LARGER JETS AT NATIONAL AIRPORT

Mr. SPONG. Mr. President, the recent action by the Federal Aviation Administration to allow larger jets to operate at National Airport not only contradicts assurances given to me and other Senators, but totally ignores the community interest in seeing reasonable limits established at that facility.

In making this decision, it appears that the FAA consulted only the airlines whose convenience and profit would be served. The people over whose homes these aircraft fly and whose communities are blighted by this overburdened airport are left to take the consequences.

Mr. President, the FAA claims to be acting in the true public interest, but it has not once asked what the public thought or let its voice be heard. In the one case in which the public was offered a forum to express its views on congestion at National Airport—the Civil Aeronautics Board's Washington-Baltimore airport investigation—the FAA was in-

strumental in having that case discontinued even before a formal hearing was held. Is it any wonder that public confidence in government is so low?

Mr. President, I have introduced a bill which would remove National and Dulles Airports from the control of the FAA and give the communities affected a strong voice in their future operation.

In this connection, I ask unanimous consent to have printed in the RECORD three recent editorials: "Airport Logic," published in the Norfolk Virginian Pilot of May 3, 1970; "Bigger Jets at National," published in the Washington Post of May 4, 1970; and "Stretching the Rules," published in the Washington Evening Star of May 12, 1970.

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

[From the Norfolk Virginian Pilot, May 3, 1970]

AIRPORT LOGIC

A single management for the airports at the Nation's capital is as logical as a single management for the port terminals in Hampton Roads. This is a part of the thrust of a bill introduced by U.S. Senator William B. Spong Jr.

Senator Spong's bill also would get the Federal Government out of the commercial airport business. The Federal Aviation Administration owns and operates both Washington National and Dulles International, and critics contend that the FAA runs them for the benefit of the airlines exclusively.

The Senator's bill would create an authority, made up of representatives from Virginia, Maryland, and the District of Columbia—which would hire a staff to run the airports.

The authority would give the communities a voice in the airports' operations and assure greater efficiency by channeling some of the overload at Washington National to the relatively empty runways at Dulles International.

Senator Spong's bill, introduced last November, was prompted by the Civil Aeronautics Board's failure to hold a single public hearing or take any action in an investigation of the crowded conditions at Washington National. The CAB last week formally dropped the investigation after almost three years.

Fortunately, a hearing on the Spong bill, called by the Senate Commerce Committee's Aviation Subcommittee June 9-10, seems destined to do the CAB's job of investigating Senator Spong's charge that "the FAA has been operating these facilities as though they were its private property."

The Federal agencies' apparent lack of concern over present congestion is even more alarming in the face of an expected threefold growth in air traffic to the Capital by 1980.

[From the Washington Post, May 4, 1970]

BIGGER JETS AT NATIONAL

Every once in a while, it seems, the airlines and the Federal Aviation Administration have to be reminded that they should be working to make Dulles and Friendship this area's major airports, not National. Senator Spong dropped in that reminder last week when he discovered that the FAA is permitting stretched 727s to land at National. These are the long versions of one of the two-engine jet models allowed there, and their additional passenger capacity alone (170 as compared with 131) is sufficient to keep them out.

What happened was that the FAA "temporarily" lifted the ban on these planes

during the semi-strike of the air controllers. It did so for a perfectly good reason—more people could be moved in fewer planes, thus easing the load on the air traffic control system. But this "temporary" action has outlived the strike and, as we unhappily learned with the jets, once you let a particular type of plane land at National you have all kinds of problems barring it subsequently.

The trouble with National, as far as this community is concerned, consists of noise, dirt and congestion. The hope of eliminating it as an airport seems gone, although that would be the proper step, and the only part of the problem which can still be controlled is congestion. The place is too crowded now and bringing in bigger planes with more passengers is only going to make it worse. The best way to get passengers out of National and out to Dulles, where they can be accommodated better, is to get airplanes out to Dulles. Allowing bigger 727s into National only postpones that day and it has already been postponed far too long.

[From the Washington Star, May 12, 1970]

STRETCHING THE RULES

In the public interest, during the recent air controller slowdown, the Federal Aviation Administration relaxed its rules to allow the so-called "stretch" jets to operate at Washington National Airport. Now, with the slowdown over, the larger jets remain. And timely protests have been registered by both Virginia's Senator Spong and Representative Gude of Maryland.

John H. Shaffer, the FAA chief, defended the rule stretchout in a speech the other day, in which he also repudiated the continuing demands that National be shut down altogether.

On the latter point, we're in his corner. The air capacity of National provides a vital, logical service to the Nation's Capital. Its value, in the years ahead, will become even more apparent. And we doubt that the shrillest of the airport's opponents really believes there is the slightest chance that this facility, in view of the spiraling pace of air travel, will be closed.

But Shaffer, for his part, doesn't seem to understand that he is undermining his own cause by slipping in little extras sought by the airlines—of which the stretch jets are a prime example—at every opportunity. In fact, according to Spong, the decision contradicts the specific recommendation of a confidential study by the FAA itself, which concluded that the use of the stretch 727s would violate the intent of operational restraints imposed by the agency on National more than two years ago.

In his argument, Shaffer said that Dulles Airport, in time, will join National in handling all the traffic it can bear. No doubt he is right, and the time to start looking elsewhere in earnest for further airport capacity is already overdue.

But Dulles is by no means at a point of congestion. And that is where the larger jets, with their increased passenger loads, ought to be routed now—rather than to impose new pressures on facilities at National which already are jammed.

ADDRESS BY SENATOR KENNEDY ON FORMER CHIEF JUSTICE WARREN AND THE CURRENT CRISIS IN CIVIL LIBERTIES

Mr. HART. Mr. President, for the past 5 years, the J.F.K. Lodge of B'nai B'rith has honored great Americans by presenting them with its Profiles in Courage Award. On April 28, the sixth of these awards, the award for 1970, was made to former Chief Justice Earl Warren. I believe that the lodge honors itself by

ator from Utah (Mr. BENNETT), for referral to the proper committee, a bill to authorize further adjustments in the amount of silver certificates outstanding, and for other purposes.

This legislation has been requested by the Secretary of the Treasury and is in keeping with action we took in 1967 to reduce Treasury liability for silver certificates, whenever it has been determined by the Secretary of the Treasury that such certificates have been lost or destroyed or held in private collections never to be presented for collection. In addition, the bill would authorize the Secretary to reduce the amount of certain old Federal Reserve and National Bank notes outstanding in keeping with the policy regarding silver certificates established in 1967.

I ask unanimous consent that the bill be printed in full in the RECORD following my remarks.

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

The bill (S. 3825) to authorize further adjustments in the amount of silver certificates outstanding, and for other purposes, introduced by Mr. SPARKMAN, for himself and Mr. BENNETT, was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

S. 3825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of June 24, 1967 (31 U.S.C. 405a-2) is amended by inserting a comma and the words "Federal Reserve bank notes, and National bank notes" immediately after "silver certificates" wherever the term appears and by striking out "(not exceeding \$200,000,000 in aggregate face value)".

S. 3826—INTRODUCTION OF A BILL TO TERMINATE PRICE-SUPPORT PROGRAMS FOR TOBACCO

Mr. MOSS. Mr. President, I introduce, for appropriate reference, a bill to terminate all price-support programs for tobacco beginning with the 1971 crop of tobacco.

The bill would also terminate export subsidies for the export of tobacco to any foreign country after December 31, 1970.

Passage of this bill will terminate the Government's schizophrenic approach to tobacco. On one hand the official Government health officer, the Surgeon General, informs us that smoking cigarettes is dangerous to our health. On the other hand, the Federal Government spends the taxpayers' money to subsidize the growth of tobacco.

I realize that the growing of tobacco is of great economic importance to our citizens in several States, but tobacco has been proven to be a hazard to the health of the Nation, and, therefore, the Government should not be involved in subsidies to encourage its continued growth.

During the past several months I have received numerous letters from all parts of the country written by citizens who are concerned about the hypocrisy of our

Government concerning tobacco. They point out that the Surgeon General's various reports on the hazards of tobacco make it inappropriate for the Government to continue to subsidize the growth of tobacco. This bill should have wide support among the citizens of this country.

I would like to point out that the bill I am introducing today does not terminate price supports for other crops such as grain, cotton, and so forth, but the health hazard involved in the use of tobacco places that particular crop in a separate category.

I ask unanimous consent to have the bill printed in the RECORD.

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

The bill (S. 3826) to terminate all price support programs for tobacco, beginning with the 1971 crop of tobacco, introduced by Mr. MOSS, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S. 3826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, beginning with the 1971 crop of tobacco, no price support for tobacco shall be made available to producers in any year.

(b) Notwithstanding any other provision of law, no export subsidy may be paid to any person under the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480, Eighty-third Congress), for the export of tobacco to any foreign country after December 31, 1970.

S. 3827—INTRODUCTION OF A BILL TO ALLOW STATES TO APPLY MORE STRINGENT REGULATIONS THAN THOSE SET UNDER THE FEDERAL MEAT INSPECTION ACT

Mr. HART. Mr. President, I am today introducing a bill to allow States to apply more stringent marking, labeling, packaging, or ingredient requirements than those set under the Federal Meat Inspection Act. This bill is a companion to legislation introduced in the other body by Congressman JAMES G. O'HARA of Michigan. Our common concern stems from the current attack being leveled on the Michigan comminuted meat law, which set stringent and precise standards on the sale of various prepared meats within the State. Several national meatpacking firms are seeking to bring comminuted meats into Michigan which do not come up to the standards set under the Michigan law, though they are in accord with the less stringent Federal regulations. These firms contend that the United States has preempted the field from the States, and that compliance with the less stringent Federal requirements is sufficient to allow them to sell their products in Michigan.

Mr. President, when a State takes the side of the consumer in the battle against shoddy goods, I think the State should be given free rein to protect our fellow citizens. I am sure it is not the intent of the Federal legislation to prevent States from

moving faster than the Federal Government in promulgating tough meat standards. The legislation I am introducing today would clarify that aspect of the Federal law by explicitly allowing States to set standards tougher than the Federal standards.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at the conclusion of my remarks.

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

The bill (S. 3827) to allow States to apply more stringent marking, labeling, packaging, or ingredient requirements than those set upon the Federal Meat Inspection Act, introduced by Mr. HART, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S. 3827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 408 of the Federal Meat Inspection Act, (21 U.S.C. 678) is amended by striking the word "Marking" and inserting in lieu thereof the words, "Except where such requirements are more stringent than those imposed under this Act, marking".

SENATE RESOLUTION 407—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF A COMPILATION ENTITLED "ESTABLISHMENT OF THE SELECT COMMITTEE ON EQUAL EDUCATIONAL OPPORTUNITY, UNITED STATES SENATE" AS A SENATE DOCUMENT

Mr. MONDALE submitted the following resolution (S. Res. 407); which was referred to the Committee on Rules and Administration:

S. RES. 407

Resolved, That a compilation of materials entitled "Establishment of the Select Committee on Equal Educational Opportunity, United States Senate", be printed as a Senate document, and that there be printed one thousand eight hundred additional copies of such document for the use of the Select Committee on Equal Educational Opportunity.

AMENDMENT OF FOREIGN MILITARY SALES ACT

AMENDMENT NO. 622

Mr. DOLE submitted an amendment, intended to be proposed by him, to the bill (H.R. 15628) to amend the Foreign Military Sales Act, which was ordered to lie on the table and to be printed.

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

AMENDMENT NO. 623

Mr. MONDALE. Mr. President, when the President sent American troops into Cambodia, he did more than widen the war. He pointed up, for all the American people to see, the broad constitutional issue of the control of U.S. foreign policy,

proceedings regarding certain American Indian tribal claims (with accompanying reports); to the Committee on Appropriations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Federal grants for construction waste treatment facilities which benefit industrial users, Federal Water Quality Administration, Department of the Interior dated May 8, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on questionable claims under the medical program for the care of persons in State institutions for the mentally retarded in California, Social and Rehabilitation Service, Department of Health, Education, and Welfare, dated May 11, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of financial statements pertaining to insurance operations of the Federal Housing Administration, fiscal year 1969, dated May 12, 1970 (with an accompanying report); to the Committee on Government Operations.

REPORT ON LOWER COLORADO RIVER BASIN DEVELOPMENT FUND

A letter from the Deputy Assistant Secretary of the Interior, reporting, pursuant to law, upon the status of the revenues from and the cost of constructing, operating, and maintaining each Lower Colorado River Basin unit; to the Committee on Interior and Insular Affairs.

PETITION

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate a letter, in the nature of a petition, from Mrs. Elizabeth Picardi, of Falls Church, Va., proposing that national guidelines governing student protest are urgently needed, and suggesting that the President sponsor a convention for all national college and university presidents, which was referred to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. METCALF, from the Committee on Interior and Insular Affairs, with an amendment:

S. 786. A bill to grant all minerals, including coal, oil, and gas, on certain lands on the Fort Belknap Indian Reservation, Mont., to certain Indians, and for other purposes (Rept. No. 91-860).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 3337. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Yakima Tribes in Indian Claims Commission dockets numbered 47-A, 162, and consolidated 47 and 164, and for other purposes (Rept. No. 91-857).

By Mr. MCGOVERN, from the Committee on Interior and Insular Affairs, with amendments:

S. 886. A bill to convey certain land of the United States to the Inter-Tribal Council, Inc., Miami, Okla. (Rept. No. 91-859).

By Mr. JORDAN of Idaho, from the Committee on Interior and Insular Affairs, with amendments:

S. 940. A bill to prohibit the licensing of hydroelectric projects on the Middle Snake

River below Hells Canyon Dam for a period of 10 years (Rept. No. 91-858).

By Mr. HATFIELD, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 780. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Merlin division, Rogue River Basin project, Oregon, and for other purposes (Rept. No. 91-856).

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

S. 759. A bill to declare that the United States holds in trust for the Washoe Tribe of Indians certain lands in Alpine County, Calif. (Rept. No. 91-861).

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

S. 3102. A bill to amend section 4 of the Fish and Wildlife Act of 1956, as amended, to extend the term during which the Secretary of the Interior can make fisheries loans under the act (Rept. No. 91-862).

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

S.J. Res. 196. Joint resolution increasing the authorization for college housing debt service grants for fiscal year 1971 (Rept. No. 91-863).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

S.J. Res. 173. Joint resolution authorizing a grant to defray a portion of the cost of expanding the United Nations headquarters in the United States (Rept. No. 91-864).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with amendments:

H.R. 8628. An act to amend the Foreign Military Sales Act (Rept. No. 91-865).

BILLS INTRODUCED

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

By Mr. GRAVEL:

S. 3824. A bill to amend section 702 of the Housing and Urban Development Act of 1965 to assist further in the provision of basic water and sewer facilities in those communities where the need is most acute; to the Committee on Banking and Currency.

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

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

S. 3825. A bill to authorize further adjustments in the amount of silver certificates outstanding, and for other purposes; to the Committee on Banking and Currency.

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

By Mr. MOSS:

S. 3826. A bill to terminate all price-support programs for tobacco beginning with the 1971 crop of tobacco; to the Committee on Agriculture and Forestry.

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

By Mr. HART:

S. 3827. A bill to allow States to apply more stringent marking, labeling, packaging, or ingredient requirements than those set under the Federal Meat Inspection Act; to the Committee on Agriculture and Forestry.

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

By Mr. EAGLETON (for himself, Mr. TYBINGS, and Mr. SPONG):

S. 3828. A bill to amend the District of Columbia Cooperative Association Act; to the Committee on the District of Columbia.

By Mr. MONDALE:
S. 3829. A bill for the relief of Theodoros Kostas; to the Committee on the Judiciary.

S. 3824—INTRODUCTION OF A BILL AMENDING THE HOUSING AND URBAN DEVELOPMENT ACT OF 1965

Mr. GRAVEL. Mr. President, the preservation and enhancement of the quality of life in the United States is a task of which Congress has become increasingly aware and undoubtedly will address more attention to in the future.

The President in his state of the Union message delivered to a joint session of the Congress on January 22 of this year stated:

We will carry our concern of the quality of life to the farm as well as the suburb, to the village as well as the city. What rural America most needs is a new kind of assistance. It needs to be dealt with, not as a separate nation but as a part of the overall growth policy for all America.

With emphasis on the quality of life throughout the United States, I am introducing a bill to amend section 702 of the Housing and Urban Development Act of 1965 to assist further in the provision of basic water and sewer facilities in those communities where the need is most acute.

The amendment will enable the Secretary of the Department of Housing and Urban Development to increase the amount of the grant for basic sewer and water facilities not to exceed 90 percent of eligible costs to all communities having a population of 15,000 providing the remaining criteria stated in the act are met. Previously, this discretion was allowed only within metropolitan areas in communities of 10,000 inhabitants.

This amendment would generally enable communities with severe health problems as a result of the lack of sewer and water facilities and unemployment twice the national average who are unable to finance the construction of such facility without an increased grant to do so.

It would give the Secretary latitude in raising the grant from 50 percent of eligible costs to a point where the community could assume the financial burden but not to exceed 90 percent of eligible costs.

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

The bill (S. 3824) to amend section 702 of the Housing and Urban Development Act of 1965 to assist further in the provision of basic water and sewer facilities in those communities where the need is most acute, introduced by Mr. GRAVEL, was received, read twice by its title, and referred to the Committee on Banking and Currency.

S. 3825—INTRODUCTION OF A BILL TO AUTHORIZE FURTHER ADJUSTMENTS IN THE AMOUNT OF SILVER CERTIFICATES OUTSTANDING

Mr. SPARKMAN. Mr. President, I introduce, for myself and the senior Sen-

particularly as it involves the matter of making war.

The American people have seen, and they do not like what they see. They see our military men apparently having the President's ear, giving him the same bad advice they gave his predecessors. They see the mistakes of the past repeated all over again. They demand action from their elected representatives to regain control over military policymaking.

The actions of the Defense Department, no less than those of any other Cabinet department or any administrative agency, must be limited to the authority granted by law. Neither the Defense Department, nor any other segment of the executive branch of Government, can be permitted to disregard those limits with impunity. If the American system of government is to work, our sprawling bureaucracy must be accountable for its actions.

Since the end of World War II, we have seen a pattern of congressional acquiescence in matters of military policy. Our past history of blanket acceptance of the Executive's actions involving both military and foreign policy is not only in sharp contrast to our close scrutiny of domestic programs; it also amounts to an abdication of clearly defined constitutional responsibilities.

Last year, Congress took the first important step toward a more careful review of the military budget. It is obvious that this effort will be continued.

But there is another area of Pentagon activity which has received far less publicity, and hence has had far less of an impact on public consciousness than excessive military spending. I refer specifically to military aid, and to a most particular kind of military aid—that by which equipment and material in excess of the needs of our Armed Forces is transferred to foreign governments.

The Defense Department and the State Department find the legal authority for this surplus arms program in sections 503(a) and 644(g) of the Foreign Assistance Act of 1961, as amended. These provisions authorize the President to furnish military assistance by loan or grant, and define the term "excess defense articles."

But the existence of legal authority is no guarantee of legislative control. For what we are dealing with in this transfer of surplus military supplies is something above and beyond the ordinary military assistance appropriations which Congress makes every year. It is military assistance which is not charged against appropriations. It can be disposed of either by sale or gift; the bulk of this equipment, however, is given away.

By relying on this program for the disposal of surplus arms abroad, the Pentagon needs no congressional authorization. Furthermore, there is no dollar limitation on the quantity of arms which can be transferred under this program.

While the Defense Department does report its various surplus arms transactions when it comes before Congress requesting its annual military assistance appropriation, there is nothing to prevent a report being submitted after the fact of transfer—well after some transaction that can be both embarrassing and even

dangerous. And under present law, there is little Congress can do to regulate such transactions even if we were fully informed in advance of what the Pentagon planned to do.

The lack of congressional power to control this program is in sharp contrast to other types of military assistance programs. For example, direct military grant assistance under the traditional foreign aid program requires annual authorizations and appropriations by Congress. Thus, Congress can limit the amount of military aid available to foreign governments under this program.

Another method of transferring arms to foreign governments is under the military sales program.

It was not too long ago that the Pentagon had complete latitude with respect to military sales. In the summer of 1967, it was revealed that the Export-Import Bank was opening lines of credit by which the Pentagon was able to sell arms to countries without revealing the names of these countries to the Bank. This unbusinesslike way of doing things was nevertheless quite acceptable to the Export-Import Bank, because its so-called country loans were guaranteed by the Pentagon up to 25 percent through a revolving fund maintained for that purpose. Over \$600 million worth of arms loans were made to underdeveloped countries through this program.

This "country X" program was not a secret, but it was not exactly a household word. Once it surfaced, however, there was fast action. The Pentagon's loan guarantee program was abolished, and the Export-Import Bank was forbidden to make any more loans to finance arms purchases. The Defense Department can still sell arms on credit, but it must first obtain congressional authorization; and Congress sets an annual ceiling on the amount of such sales.

In addition, Congress has forbidden the use of military aid to furnish sophisticated weapons systems to underdeveloped countries. It has imposed restrictions on military aid to Latin American and to Africa. It has stipulated that the sale of military equipment to less developed countries shall be cut off if those countries divert either economic assistance of Public Law 480 assistance to military expenditures, or if they divert their own resources to unnecessary military expenditures.

All of these restrictions were imposed with one end in view—congressional control of U.S. military assistance. All were designed to plug any leak in the dike and to make the policies of the Congress perfectly clear to the Executive.

Yet, despite the best efforts of the House and the Senate, we now find another leak in the dike—the disposal of military hardware and equipment that has been declared in excess of U.S. needs. And it is a leak which is becoming larger every day.

Several weeks ago, the State Department disclosed that surplus U.S. military equipment originally costing \$3.4 billion had been given to foreign governments under this program over the past 19 years. But the important point is that within the last 2 years, the Pentagon has begun to rely on this program to a much

greater extent than in the past. Since other types of military assistance have been brought under congressional control and thereby reduced in scope, the Pentagon views the surplus arms program as the primary means of getting back into the business of military assistance on a grand scale.

The best example of this trend was revealed by the probing of Representative SILVIO CONTE, a member of the House Appropriations Committee. His investigation disclosed some interesting and unknown facts about the transfer of arms to Nationalist China—the same country which caused such a great controversy during the debate over the fiscal year 1970 foreign aid appropriations bill.

This bill was blocked during the last session of Congress because the Senate conferees would not agree to providing \$54.5 million for an extra Phantom jet fighter squadron for Nationalist China. When that item was finally deleted, the appropriations bill went through, with Nationalist China receiving approximately \$25 million in direct military assistance.

Yet, while all this was going on, Congressman CONTE obtained information from the Defense Department which revealed that the Pentagon had secretly supplied the Nationalist Chinese with some \$157 million worth of weapons and equipment under this excess disposal program—over six times the amount approved by Congress in direct military assistance to that country. Included in this little package were four 20-year-old destroyers, equipment for a Nike-Hercules battery, more than 35 F-100 Super Sabre jets, more than 20 F-104 Starfighters, more than 30 C-119 Flying Boxcars, some 50 medium tanks, about 120 howitzers, and thousands of M-14 rifles. While the Pentagon declined to confirm or deny the truth of this story, the State Department confirmed it the very next day.

According to John Finney's story in the New York Times of March 29, 1970, the State Department described the transaction "as part of a general program of using surplus arms to bolster the defenses of such 'forward defense' countries as South Korea, Turkey, and Taiwan." It was noted that in recent months, the Defense Department has transferred under this program some 790,000 used rifles, carbines, and submachineguns to South Korea.

It has also been disclosed that about 73 percent of all surplus equipment is now going to Taiwan, Turkey, South Korea, and Greece. While aid to Greece has apparently consisted only of trucks, ammunition, and small arms because of the embargo of heavy military supplies imposed against that country after the military coup in 1967, the question can be raised as to whether Congress would have approved any military aid to Greece during this period. Because of the complete Executive discretion under this program, Congress never had the opportunity to approve or disapprove.

It is interesting that the State Department was willing to confirm Congressman CONTE's report about the recent arms transfer to Nationalist China, while the Defense Department remained

silent. We may speculate that the State Department, which is supposed to clear the disposal of any surplus military item, acceded to this transfer with reluctance. Certainly State does not exercise the tight control over the disposal of surplus weapons that it manages to maintain over military sales.

The fact is that this surplus arms program is being used to supplement a reduced and congressionally regulated foreign assistance program. Indeed, according to the New York Times, the principal justification offered by State Department officials for the recent shipment of surplus arms to Nationalist China was the sharp reduction in the military assistance program.

Unless something is done, Congress may soon lose control over the transfer of arms to foreign governments. The leak in the dike must be plugged.

That is why I am today submitting an amendment to H.R. 15628, the Foreign Military Sales Act, which is now before the Senate Judiciary Committee. It is intended as an amendment to the Foreign Assistance Act of 1961, and it is designed to recapture control of the surplus arms disposal program from the Department of Defense—vesting it in the Congress, where it rightfully belongs.

My amendment has two parts: First, it sets a ceiling, an absolute annual ceiling, of \$50 million on the amount of arms and equipment that may be disposed of as military surplus. Furthermore, that \$50 million valuation is based on the acquisition value of the items—what they cost the Government when they were originally purchased. At present, the Pentagon sets a "utility" value on this surplus of 30 percent of its original cost. My amendment would do away with this arbitrary valuation, which carries with it an obvious opportunity for manipulation.

Second, under this amendment, the Executive would be required to submit to Congress annually a schedule of the countries to which it proposes to transfer military surplus, as well as the items to be transferred to each country. The approval of this schedule would rest with Congress. Once the schedule is approved, if the Executive wants to add a new country to the original list, or to increase the cost of surplus arms to be transferred to any country by more than 10 percent, it would have to come back to Congress for additional approval.

It is my hope and belief that through this amendment, we can bring surplus military assistance back under the foreign aid program, and hence under the control of Congress in law and in fact.

It is vitally important to do so at this time. For as John Finney noted in the New York Times:

With the reduction of the United States military forces and withdrawal of troops from South Vietnam, billions of dollars' worth of weapons are being declared surplus by the military services. A study by the staff of the Senate Foreign Relations Committee suggest that the total may come to \$10 billion, although State Department officials believe this estimate is too high.

Thus, given the increased availability of surplus arms and given the increased reliance by the Pentagon on this pro-

gram, the time is ripe for congressional action. If this program is not brought under congressional control, I fear that we could become involved in other military adventures as unsound, as unpopular, and as unrelated to our vital national interests as the endless conflict in which we are now bogged down in Indochina.

In order to put a stop to the independent foreign policy of the Pentagon, to prevent the use of military assistance for unapproved purposes, and to insure that every transfer of military arms and equipment is undertaken only with congressional sanction, we must change the surplus arms program. The amendment which I have proposed makes this possible.

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

The PRESIDING OFFICER (Mr. TALMADGE). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 623) is as follows:

AMENDMENT No. 623

At the end of the bill, add the following new section:

SEC. 7. The Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 652. EXCESS DEFENSE ARTICLES.—(a) The total cost of excess defense articles that may be transferred to all foreign countries and international organizations shall never exceed \$50,000,000 during any fiscal year. The President shall transmit annually to the Committee on Foreign Relations of the Senate and to the Committee on Foreign Affairs of the House of Representatives a report enumerating each excess defense article to be transferred during the succeeding fiscal year and the foreign country or international organization to which each such article is to be transferred.

"(b) There shall be authorized by law for each fiscal year the total cost of excess defense articles that may be transferred to each foreign country and each international organization. No excess defense article may be transferred to any such country or organization (1) if there is no authorization for any transfer to that country or organization for that fiscal year, or (2) when there exists such an authorization for that country or organization, if the cost of that article, when added to the total of the costs of all such articles already transferred to that country or organization during the same fiscal year (if any), exceeds the total of the costs of all excess defense articles so authorized to be transferred to such country or organization during that fiscal year plus 10 per centum.

"(c) For purposes of this section, the cost of each excess defense article is the cost to the United States of acquiring that article."

NOTICE OF HEARINGS ON S. 3678, FOREIGN BANKING SECRECY

Mr. PROXMIRE. Mr. President, I wish to announce that the Subcommittee on Financial Institutions of the Committee on Banking and Currency will hold hearings on S. 3678, a bill to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in U.S. currency be reported to the De-

partment of the Treasury and for other purposes.

The hearings will be held on Monday through Thursday, June 1, 2, 3, and 4, 1970, and will begin at 10 a.m. in room 5302, New Senate Office Building.

Persons desiring to testify or to submit written statements in connection with these hearings should notify Mr. Kenneth A. McLean, Senate Committee on Banking and Currency, room 5300, New Senate Office Building, Washington, D.C. 20510; telephone 225-7391.

ANNOUNCEMENT OF HEARINGS ON OIL SHALE RESERVES

Mr. MOSS. Mr. President, on behalf of the Subcommittee on Minerals, Materials, and Fuels of the Senate Interior Committee, I announce that public hearings have been scheduled for next Thursday, May 14, on the situation with respect to development of the vast oil shale reserves in the public lands.

The hearings will open at 10 o'clock, and will be held in the Interior Committee room, 3110, New Senate Office Building. The subcommittee has urged Interior Secretary Walter J. Hickel to appear personally to set forth the facts and make recommendations to us to enable us to reach a determination as to whether new legislation is needed to bring about development. The Director of the Office of Naval Petroleum and Oil Shale Reserves also has been invited to appear.

Mr. President, studies by the Subcommittee on Minerals, Materials, and Fuels of the Interior Committee show that our country may be facing critical shortages of energy in the not too distant future. The supply situation is rendered more acute by our growing awareness of the perils to our environment from the production and use of certain forms of energy.

This is a most necessary and a most healthful development. But unless we are to become increasingly dependent on foreign sources for fuels, we must find and develop new sources within our own borders to meet the burgeoning requirements of our economy and way of life.

One of the great potential sources of energy, as yet untapped, is the vast oil shale reserves in Utah, Colorado, Wyoming, and other Western States, including Alaska. The richest and most abundant of these reserves lie in federally owned lands. These deposits are subject to the Mineral Leasing Act of 1920, but all reserves in Federal lands were withdrawn in 1930 by President Hoover in the wake of the Teapot Dome scandals.

Secretary Udall tried to initiate a program in 1967 for development of these reserves. Unfortunately, the potential developers felt that the conditions he laid down were too stringent, too uncertain, and too expensive for a wholly new industry, and nothing concrete came of Secretary Udall's program.

As I have stated, our country will need, and need soon, the energy locked up in these oil shale reserves. It is hoped our subcommittee hearing will clarify the political and economic situation so that development of this great federally owned natural resource may get underway.

unanimous consent that the order for the quorum call be rescinded.

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

SUPREME COURT OF THE UNITED STATES

The Senate, in executive session, continued with the consideration of the nomination of Harry A. Blackmun, of Minnesota, to be an Associate Justice of the Supreme Court of the United States.

Mr. HARRIS. Mr. President, on May 4, the Senate Judiciary Committee by a unanimous vote of 17 to 0 recommended approval of the nomination of Judge Harry A. Blackmun for membership on the U.S. Supreme Court.

From every indication Judge Blackmun appears to meet high standards of judicial competence, temperament, and personal integrity. It is important to note that during several days of hearings no one requested to appear before the Judiciary Committee to testify in opposition to this nomination. It is also significant that Judge Blackmun is a "strict constructionist" in opinion of President Nixon.

His judicial opinions are well written and scholarly, and they show an awareness of the broad social problems of our day and a perception of current trends in the law. The American Bar Association found that, as a judge, he considered and weighed in a fair manner all arguments presented to him. The ABA further stated that:

Judge Blackmun was interviewed and impressed us as a judge who is sincere, frank, understanding and cooperative, one who conscientiously and with open-mind weighs every reasonable argument with careful knowledge of the record, the arguments, and the law.

Judge Blackmun's qualifications to be an Associate Justice of the Supreme Court are evidenced by his broad general experience in law and business, 11 years service on the Eighth Circuit Court of Appeals, 8 years experience as a professor of law, and 16 years of work as a practicing attorney. Judge Blackmun has the unanimous support of his colleagues on the eighth circuit, as well as that of a former chief judge of that circuit. He also has the backing of judges, lawyers, and law-school deans in the eighth circuit and throughout the country.

Judge Blackmun's financial holdings have been fully disclosed and adequately explained; they show no apparent conflicts of interest. His testimony before the committee was given with great care and full candor.

The Supreme Court serves as the court of final appeals in our judicial system. Individuals appointed to the Court are appointed for life. Consequently, they should measure up to high standards of moral, ethical, and judicial integrity if public trust and confidence are to be promoted and preserved. On the record, the nomination before us meets such standards. Accordingly, I believe the Senate should advise and consent to the

nomination of Judge Harry A. Blackmun to be an Associate Justice of the U.S. Supreme Court.

ORDER OF BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent to proceed as in legislative session, to discuss an amendment to the so-called Church-Cooper amendment.

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

AMENDMENT TO THE FOREIGN MILITARY SALES ACT

AMENDMENT NO. 622

Mr. DOLE. Mr. President, I send to the desk an amendment to the Foreign Military Sales Act (H.R. 15628). I ask unanimous consent that it be printed and ordered to lie on the table. I also ask unanimous consent that the text of the amendment be printed in the Record at the end of my remarks.

The PRESIDING OFFICER. The amendment will be received and printed and, without objection, the amendment will lie on the table and will be printed in the Record, as requested by the Senator from Kansas.

(See exhibit 1.)

Mr. DOLE. I may offer this amendment as a substitute for the language of the amendment submitted yesterday by the distinguished Senator from Kentucky (Mr. COOPER), the distinguished Senator from Idaho (Mr. CHURCH), and others, because I feel it would more fully accomplish the aims than that amendment.

Let me point out that I share the concern of the Senator from Kentucky and the Senator from Idaho. They have long distinguished themselves and this body by their sincere dedication to the wise direction of this country's foreign policy. Like them, I, too, have had some misgivings over the recent turn of events in Indochina and am not fully convinced the use of American troops within Cambodia was necessary to protect present U.S. troop positions in Vietnam or to secure the Vietnamization process.

However, I have great faith in President Nixon—in his wisdom, his courage, and his desire to do everything in his power to protect American troops while pursuing their withdrawal at the fastest possible rate.

The Cooper-Church amendment expresses a legitimate congressional concern that the conflict in Vietnam not be broadened or expanded into the surrounding nations and kingdoms. The distinguished Senator from Kentucky said as much in his statement on May 7.

However, I am concerned there be no limitation on the President's power to protect U.S. military forces.

I have therefore chosen language which does clearly state Congress' intention that the war not be expanded and at the same time avoids any possible interpretation which would lead any for-

eign or domestic party to think the President's power to protect our men has been hamstrung in any fashion.

I am highly concerned that the conflict in Indochina not be broadened or expanded. I am more concerned, however, that nothing can be done to jeopardize the safety of our forces or the President's power to protect them.

This amendment would accomplish the purpose of expressing congressional sentiment. It would also clarify some questions which the Cooper-Church proposal does not fully resolve.

Mr. President, briefly, the amendment would provide, by amending the Foreign Military Sales Act, as follows:

In line with the expressed intention of the President of the United States, no funds authorized or appropriated pursuant to this Act or any other law shall be used to finance the introduction of American ground combat troops into Laos, Thailand, or Cambodia without the prior consent of the Congress, except to the extent that the introduction of such troops is required, as determined by the President and report promptly to the Congress to protect the lives of American troops remaining within South Vietnam.

Mr. President, I ask and urge the support of my colleagues for this amendment to insure the utmost safety and security for our troops in Vietnam.

EXHIBIT 1

Amendment No. 622.

Strike out section 7 and insert in lieu thereof the following:

SEC. 7. The Foreign Military Sales Act is further amended by adding at the end thereof the following new section:

"Sec. 47. Prohibiting Use of American Ground Combat Troops in Laos, Thailand, and Cambodia.—In line with the expressed intention of the President of the United States, no funds authorized or appropriated pursuant to this Act or any other law shall be used to finance the introduction of American ground combat troops into Laos, Thailand, or Cambodia without the prior consent of the Congress, except to the extent that the introduction of such troops is required, as determined by the President and reported promptly to the Congress, to protect the lives of American troops remaining within South Vietnam."

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR THURMOND

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the vote on Judge Blackmun, the distinguished senior Senator from South Carolina (Mr. THURMOND) be recognized for not to exceed 1 hour and a half.

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

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MANSFIELD. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to and, at 12:05 p.m., the Senate recessed, subject to the call of the Chair.

At 1 o'clock and 55 minutes p.m., the Senate reassembled, when called to order by the Presiding Officer (Mr. TALMADGE).

SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination of Harry A. Blackmun, of Minnesota, to be an Associate Justice of the Supreme Court of the United States.

Mr. HOLLINGS. Mr. President, at this time, I would like to have printed in the RECORD, from the record of the Committee on the Judiciary in connection with the nomination of Judge Harry A. Blackmun to be a member of the Supreme Court, substantially those cases filed by the Justice Department on pages 15 and 16, and that portion with reference the canons on page 16. I ask unanimous consent to have those excerpts printed at this point in the RECORD.

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

In the light of the extended debate over the confirmation of Judge Haynsworth, Judge Blackmun requested the advice of the Department, and requested the Department to call to the attention of the Judiciary Committee, the following specific situations.

Stock in Ford Motor Co. & American Tel. & Tel. In October, 1957, prior to assuming the bench, Judge Blackmun purchased fifty shares of stock in Ford Motor Company, at a total purchase price slightly in excess of \$2,500. Approximately six months after becoming a circuit Judge, he participated in the decision of the case of *Hanson v. Ford Motor Company*, 278 F.2d 586 (1960). Prior to doing so, Judge Blackmun recalls discussing the matter with then Chief Judge Johnson of the Court of Appeals for the Eighth Circuit, and concluding that his interest in the case was *de minimis* and that he should not disqualify himself. He wrote the opinion of the Court of Appeals, directing the district court to reinstate a jury verdict in the amount of \$24,500 which had been rendered against the Ford Motor Company, but which the district court had set aside.

Four years later Judge Blackmun was a member of a panel of the Court of Appeals which heard and decided the case of *Kotula v. Ford Motor Company*, 338 F. 2d 732. In that case, Judge Matthes wrote the opinion of the court, upholding a judgment of the district court which had set aside a jury verdict of \$12,500 in favor of the plaintiff.

In January, 1970, Judge Blackmun received notice of his assignment to a case in which a wholly owned subsidiary of Ford Motor Company, Gateway Ford Truck Sales, was a party. In view of the national attention that had focused on the issue of disqualification as a result of the debates over the confirmation of Judge Haynsworth, Judge Blackmun advised Chief Judge Van Oosterhout that he regarded himself as disqualified, and the case was assigned by the Chief Judge to another panel. *Bridgeman v. Gateway Ford Truck Sales*, Docket No. 19,749 (Feb. 4, 1970).

During 1963 and 1964, Judge Blackmun acquired 22 shares of American Telephone and Telegraph Company stock, at a total cost of approximately \$1,350. In 1967, he participated in the decision by the Court of Appeals of *Mahoney v. Northwestern Bell Telephone Company*, 377 F. 2d 549 (1967). In that case, the Court of Appeals in a brief *per curiam* opinion upheld the judgment of the court below which dismissed the plaintiff's complaint for lack of diversity jurisdiction as required by statute. The plaintiff had prayed for \$35,000 damages, alleging that he was a citizen of Nebraska and that the defendant Northwestern Bell Telephone Company was, for jurisdictional purposes, an Iowa corporation. The Court of Appeals upheld the district judge's ruling that the defendant was a Nebraska corporation, and therefore both the plaintiff and the defendant were citizens and residents of the same state.

The statute governing disqualification for federal judges is 28 U.S.C. 455, which provides in pertinent part as follows: "Any justice or judge of the United States shall disqualify himself in any case in which he has a substantial interest."

The Department of Justice has advised Judge Blackmun that in its opinion he did not have in any of these three cases such a "substantial interest" as would require him to disqualify himself. By any quantitative standards, Judge Blackmun's interest in the two Ford cases can only be described as microscopic. In 1960, he owned fifty shares out of more than 16,000,000 issued and outstanding. In 1964, he owned 100 out of more than 52,000,000 shares issued and outstanding common stock. The \$24,500 jury award involved in *Hanson* is likewise but a tiny fraction of Ford's 1960 net income of approximately \$427,000,000, and the \$12,500 award involved in *Kotula* is an even tinier fraction of Ford's 1964 net income of approximately \$605,000,000.

Judge Blackmun's holding of 22 shares of American Telephone and Telegraph Company stock in 1967 must be related to the nearly 540,000,000 shares outstanding in 1967. The \$35,000 prayed for by the plaintiff in *Mahoney* is an infinitesimal portion of American Telephone and Telegraph Company's 1967 net income of approximately one and one-half billion dollars.

In short, if the word "substantial" in 28 U.S.C. 455 is to be given any meaning at all, Judge Blackmun was not required to disqualify himself in any of these three cases.

Canon 29, American Bar Association Canons of Judicial Ethics, provides that "a Judge should abstain from performing or taking part in any judicial act in which his personal interests are involved." The term "personal interests" is not defined, though Formal Opinion No. 170 states that a judge who is a stockholder in a corporation which is a party to litigation pending in his court should not perform any judicial function with respect to that law suit which involves an exercise of discretion.

The relationship between the federal statute pertaining to disqualification, 28 U.S.C. 455, and Canon 29 is far from clear. Different language is used in each, and the absence of the adjective "substantial" in the Canon sug-

gests that it may impose a stricter test than the statute. However, in the light of the extremely small amount, both absolutely and proportionally, of Judge Blackmun's holdings in the corporations involved, this would appear to be an appropriate case for the application of the rule of "*de minimis non curat lex*" in interpreting Canon 29 and Formal Opinion 170. The *de minimis* principle in no way impairs the safeguarding of both the fact and appearance of impartiality which the Canon rightfully demands of our judges, and yet it permits a common-sense application of the rule where a judge's interest is genuinely insignificant. The underlying question under the Canon is whether Judge Blackmun either acted with partiality or created an appearance of partiality in the above-entitled cases. In the opinion of the Department, he did neither.

Mr. HOLLINGS. Mr. President, I think it is significant in considering this particular nomination, for which I intend to vote, that it brings into issue the same four issues that confronted Judge Clement F. Haynsworth, Jr. in his nomination to be a member of the Supreme Court. The fact is that the Blackmun-Haynsworth parallel is almost word for word, case for case, former clients, interests, and even cases involving the holding of a stock interest.

Significantly, they emphasize further the 3 M case—the Minnesita Mining & Manufacturing Co. in which Judge Blackmun had an interest at the time of a ruling—which parallels in large measure the famous Brunswick case involved in the Haynsworth nomination. It will be remembered, Mr. President, that in the Brunswick case, Judge Haynsworth did not hold the stock at the time of the arguments before him or when the decision was made. He purchased the stock thereafter, and at the time a motion for rehearing was considered, he did hold the stock. The very same is true in the 3 M case. Of course, the difference is that the opinion was filed, but the fundamental is still there: "Do you now hold the stock?"

As they said, the amount made no difference. No one ever doubted the honesty of Judge Haynsworth. They all asked him to remain as Chief Judge of the fourth circuit, where he now continues to serve with distinction. But the point was the "appearance of impropriety."

Mr. President, I insert these cases in the record to emphasize the double standard employed by my colleagues in the Senate as a body, apparently, on whether or not a judge is from South Carolina or from Minnesota. Apparently, if one is from South Carolina, the standards or qualifications by way of ethics, former client, and interest—substantial or not—are higher than would be required of a Minnesota judge.

I believe—as they all concluded in the Haynsworth case—that Judge Haynsworth adhered to the law, and I believe that Judge Blackmun adhered to the law. The interests were inconsequential. The law says "substantial." However, in the Haynsworth case, my colleagues, consisting of a jury, found otherwise. I am willing to abide by their finding.

In accordance, I had introduced a bill (S. 2994) which provided that any interest or real estate holding whatever by a judge would be disqualification, so

silent. We may speculate that the State Department, which is supposed to clear the disposal of any surplus military item, acceded to this transfer with reluctance. Certainly State does not exercise the tight control over the disposal of surplus weapons that it manages to maintain over military sales.

The fact is that this surplus arms program is being used to supplement a reduced and congressionally regulated foreign assistance program. Indeed, according to the New York Times, the principal justification offered by State Department officials for the recent shipment of surplus arms to Nationalist China was the sharp reduction in the military assistance program.

Unless something is done, Congress may soon lose control over the transfer of arms to foreign governments. The leak in the dike must be plugged.

That is why I am today submitting an amendment to H.R. 15628, the Foreign Military Sales Act, which is now before the Senate Judiciary Committee. It is intended as an amendment to the Foreign Assistance Act of 1961, and it is designed to recapture control of the surplus arms disposal program from the Department of Defense—vesting it in the Congress, where it rightfully belongs.

My amendment has two parts: First, it sets a ceiling, an absolute annual ceiling, of \$50 million on the amount of arms and equipment that may be disposed of as military surplus. Furthermore, that \$50 million valuation is based on the acquisition value of the items—what they cost the Government when they were originally purchased. At present, the Pentagon sets a "utility" value on this surplus of 30 percent of its original cost. My amendment would do away with this arbitrary valuation, which carries with it an obvious opportunity for manipulation.

Second, under this amendment, the Executive would be required to submit to Congress annually a schedule of the countries to which it proposes to transfer military surplus, as well as the items to be transferred to each country. The approval of this schedule would rest with Congress. Once the schedule is approved, if the Executive wants to add a new country to the original list, or to increase the cost of surplus arms to be transferred to any country by more than 10 percent, it would have to come back to Congress for additional approval.

It is my hope and belief that through this amendment, we can bring surplus military assistance back under the foreign aid program, and hence under the control of Congress in law and in fact.

It is vitally important to do so at this time. For as John Finney noted in the New York Times:

With the reduction of the United States military forces and withdrawal of troops from South Vietnam, billions of dollars' worth of weapons are being declared surplus by the military services. A study by the staff of the Senate Foreign Relations Committee suggest that the total may come to \$10 billion, although State Department officials believe this estimate is too high.

Thus, given the increased availability of surplus arms and given the increased reliance by the Pentagon on this pro-

gram, the time is ripe for congressional action. If this program is not brought under congressional control, I fear that we could become involved in other military adventures as unsound, as unpopular, and as unrelated to our vital national interests as the endless conflict in which we are now bogged down in Indochina.

In order to put a stop to the independent foreign policy of the Pentagon, to prevent the use of military assistance for unapproved purposes, and to insure that every transfer of military arms and equipment is undertaken only with congressional sanction, we must change the surplus arms program. The amendment which I have proposed makes this possible.

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

The PRESIDING OFFICER (Mr. TALMADGE). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 623) is as follows:

AMENDMENT No. 623

At the end of the bill, add the following new section:

SEC. 7. The Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 652. EXCESS DEFENSE ARTICLES.—(a) The total cost of excess defense articles that may be transferred to all foreign countries and international organizations shall never exceed \$50,000,000 during any fiscal year. The President shall transmit annually to the Committee on Foreign Relations of the Senate and to the Committee on Foreign Affairs of the House of Representatives a report enumerating each excess defense article to be transferred during the succeeding fiscal year and the foreign country or international organization to which each such article is to be transferred.

"(b) There shall be authorized by law for each fiscal year the total cost of excess defense articles that may be transferred to each foreign country and each international organization. No excess defense article may be transferred to any such country or organization (1) if there is no authorization for any transfer to that country or organization for that fiscal year, or (2) when there exists such an authorization for that country or organization, if the cost of that article, when added to the total of the costs of all such articles already transferred to that country or organization during the same fiscal year (if any), exceeds the total of the costs of all excess defense articles so authorized to be transferred to such country or organization during that fiscal year plus 10 percentum.

"(c) For purposes of this section, the cost of each excess defense article is the cost to the United States of acquiring that article."

NOTICE OF HEARINGS ON S. 3678, FOREIGN BANKING SECRECY

Mr. PROXMIRE. Mr. President, I wish to announce that the Subcommittee on Financial Institutions of the Committee on Banking and Currency will hold hearings on S. 3678, a bill to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in U.S. currency be reported to the De-

partment of the Treasury and for other purposes.

The hearings will be held on Monday through Thursday, June 1, 2, 3, and 4, 1970, and will begin at 10 a.m. in room 5302, New Senate Office Building.

Persons desiring to testify or to submit written statements in connection with these hearings should notify Mr. Kenneth A. McLean, Senate Committee on Banking and Currency, room 5300, New Senate Office Building, Washington, D.C. 20510; telephone 225-7391.

ANNOUNCEMENT OF HEARINGS ON OIL SHALE RESERVES

Mr. MOSS. Mr. President, on behalf of the Subcommittee on Minerals, Materials, and Fuels of the Senate Interior Committee, I announce that public hearings have been scheduled for next Thursday, May 14, on the situation with respect to development of the vast oil shale reserves in the public lands.

The hearings will open at 10 o'clock, and will be held in the Interior Committee room, 3110, New Senate Office Building. The subcommittee has urged Interior Secretary Walter J. Hickel to appear personally to set forth the facts and make recommendations to us to enable us to reach a determination as to whether new legislation is needed to bring about development. The Director of the Office of Naval Petroleum and Oil Shale Reserves also has been invited to appear.

Mr. President, studies by the Subcommittee on Minerals, Materials, and Fuels of the Interior Committee show that our country may be facing critical shortages of energy in the not too distant future. The supply situation is rendered more acute by our growing awareness of the perils to our environment from the production and use of certain forms of energy.

This is a most necessary and a most healthful development. But unless we are to become increasingly dependent on foreign sources for fuels, we must find and develop new sources within our own borders to meet the burgeoning requirements of our economy and way of life.

One of the great potential sources of energy, as yet untapped, is the vast oil shale reserves in Utah, Colorado, Wyoming, and other Western States, including Alaska. The richest and most abundant of these reserves lie in federally owned lands. These deposits are subject to the Mineral Leasing Act of 1920, but all reserves in Federal lands were withdrawn in 1930 by President Hoover in the wake of the Teapot Dome scandals.

Secretary Udall tried to initiate a program in 1967 for development of these reserves. Unfortunately, the potential developers felt that the conditions he laid down were too stringent, too uncertain, and too expensive for a wholly new industry, and nothing concrete came of Secretary Udall's program.

As I have stated, our country will need, and need soon, the energy locked up in these oil shale reserves. It is hoped our subcommittee hearing will clarify the political and economic situation so that development of this great federally owned natural resource may get underway.

particularly as it involves the matter of making war.

The American people have seen, and they do not like what they see. They see our military men apparently having the President's ear, giving him the same bad advice they gave his predecessors. They see the mistakes of the past repeated all over again. They demand action from their elected representatives to regain control over military policymaking.

The actions of the Defense Department, no less than those of any other Cabinet department or any administrative agency, must be limited to the authority granted by law. Neither the Defense Department, nor any other segment of the executive branch of Government, can be permitted to disregard those limits with impunity. If the American system of government is to work, our sprawling bureaucracy must be accountable for its actions.

Since the end of World War II, we have seen a pattern of congressional acquiescence in matters of military policy. Our past history of blanket acceptance of the Executive's actions involving both military and foreign policy is not only in sharp contrast to our close scrutiny of domestic programs; it also amounts to an abdication of clearly defined constitutional responsibilities.

Last year, Congress took the first important step toward a more careful review of the military budget. It is obvious that this effort will be continued.

But there is another area of Pentagon activity which has received far less publicity, and hence has had far less of an impact on public consciousness than excessive military spending. I refer specifically to military aid, and to a most particular kind of military aid—that by which equipment and material in excess of the needs of our Armed Forces is transferred to foreign governments.

The Defense Department and the State Department find the legal authority for this surplus arms program in sections 503(a) and 644(g) of the Foreign Assistance Act of 1961, as amended. These provisions authorize the President to furnish military assistance by loan or grant, and define the term "excess defense articles."

But the existence of legal authority is no guarantee of legislative control. For what we are dealing with in this transfer of surplus military supplies is something above and beyond the ordinary military assistance appropriations which Congress makes every year. It is military assistance which is not charged against appropriations. It can be disposed of either by sale or gift; the bulk of this equipment, however, is given away.

By relying on this program for the disposal of surplus arms abroad, the Pentagon needs no congressional authorization. Furthermore, there is no dollar limitation on the quantity of arms which can be transferred under this program.

While the Defense Department does report its various surplus arms transactions when it comes before Congress requesting its annual military assistance appropriation, there is nothing to prevent a report being submitted after the fact of transfer—well after some transaction that can be both embarrassing and even

dangerous. And under present law, there is little Congress can do to regulate such transactions even if we were fully informed in advance of what the Pentagon planned to do.

The lack of congressional power to control this program is in sharp contrast to other types of military assistance programs. For example, direct military grant assistance under the traditional foreign aid program requires annual authorizations and appropriations by Congress. Thus, Congress can limit the amount of military aid available to foreign governments under this program.

Another method of transferring arms to foreign governments is under the military sales program.

It was not too long ago that the Pentagon had complete latitude with respect to military sales. In the summer of 1967, it was revealed that the Export-Import Bank was opening lines of credit by which the Pentagon was able to sell arms to countries without revealing the names of these countries to the Bank. This unbusiness like way of doing things was nevertheless quite acceptable to the Export-Import Bank, because its so-called country loans were guaranteed by the Pentagon up to 25 percent through a revolving fund maintained for that purpose. Over \$600 million worth of arms loans were made to underdeveloped countries through this program.

This "country X" program was not a secret, but it was not exactly a household word. Once it surfaced, however, there was fast action. The Pentagon's loan guarantee program was abolished, and the Export-Import Bank was forbidden to make any more loans to finance arms purchases. The Defense Department can still sell arms on credit, but it must first obtain congressional authorization; and Congress sets an annual ceiling on the amount of such sales.

In addition, Congress has forbidden the use of military aid to furnish sophisticated weapons systems to underdeveloped countries. It has imposed restrictions on military aid to Latin American and to Africa. It has stipulated that the sale of military equipment to less developed countries shall be cut off if those countries divert either economic assistance of Public Law 480 assistance to military expenditures, or if they divert their own resources to unnecessary military expenditures.

All of these restrictions were imposed with one end in view—congressional control of U.S. military assistance. All were designed to plug any leak in the dike and to make the policies of the Congress perfectly clear to the Executive.

Yet despite the best efforts of the House and the Senate, we now find another leak in the dike—the disposal of military hardware and equipment that has been declared in excess of U.S. needs. And it is a leak which is becoming larger every day.

Several weeks ago, the State Department disclosed that surplus U.S. military equipment originally costing \$3.4 billion had been given to foreign governments under this program over the past 19 years. But the important point is that within the last 2 years, the Pentagon has begun to rely on this program to a much

greater extent than in the past. Since other types of military assistance have been brought under congressional control and thereby reduced in scope, the Pentagon views the surplus arms program as the primary means of getting back into the business of military assistance on a grand scale.

The best example of this trend was revealed by the probing of Representative SILVIO CONTE, a member of the House Appropriations Committee. His investigation disclosed some interesting and unknown facts about the transfer of arms to Nationalist China—the same country which caused such a great controversy during the debate over the fiscal year 1970 foreign aid appropriations bill.

This bill was blocked during the last session of Congress because the Senate conferees would not agree to providing \$54.5 million for an extra Phantom jet fighter squadron for Nationalist China. When that item was finally deleted, the appropriations bill went through, with Nationalist China receiving approximately \$25 million in direct military assistance.

Yet, while all this was going on, Congressman CONTE obtained information from the Defense Department which revealed that the Pentagon had secretly supplied the Nationalist Chinese with some \$157 million worth of weapons and equipment under this excess disposal program—over six times the amount approved by Congress in direct military assistance to that country. Included in this little package were four 20-year-old destroyers, equipment for a Nike-Hercules battery, more than 35 F-100 Super Sabre jets, more than 20 F-104 Starfighters, more than 30 C-119 Flying Boxcars, some 50 medium tanks, about 120 howitzers, and thousands of M-14 rifles. While the Pentagon declined to confirm or deny the truth of this story, the State Department confirmed it the very next day.

According to John Finney's story in the New York Times of March 29, 1970, the State Department described the transaction "as part of a general program of using surplus arms to bolster the defenses of such 'forward defense' countries as South Korea, Turkey, and Taiwan." It was noted that in recent months, the Defense Department has transferred under this program some 790,000 used rifles, carbines, and submachineguns to South Korea.

It has also been disclosed that about 73 percent of all surplus equipment is now going to Taiwan, Turkey, South Korea, and Greece. While aid to Greece has apparently consisted only of trucks, ammunition, and small arms because of the embargo of heavy military supplies imposed against that country after the military coup in 1967, the question can be raised as to whether Congress would have approved any military aid to Greece during this period. Because of the complete Executive discretion under this program, Congress never had the opportunity to approve or disapprove.

It is interesting that the State Department was willing to confirm Congressman CONTE's report about the recent arms transfer to Nationalist China, while the Defense Department remained