

SECRET

JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Thursday - 18 June 1970

1. (Internal Use Only - JGO) Met with Mrs. Oneta Stockstill, Executive Secretary, House Armed Services Committee, and gave her a list of the Agency personnel who will be appearing before the CIA Subcommittee this morning. Administrative arrangements for the meeting were finalized with her.

25X1A
25X1A
2. (Internal Use Only - JMC) Received a call from Mrs. Hurme, in the office of Representative Joe Skubitz (R., Kansas), who requested an employment interview for [REDACTED]. After checking with [REDACTED] Office of Personnel, I advised Mrs. Hurme that an appointment had been scheduled for 2:30 this afternoon.

25X1A
3. (Secret - JMM) Accompanied the Director and Messrs. Bruce Clarke, [REDACTED] who appeared before the CIA Subcommittee of the House Armed Services Committee. The Director briefed on the Soviet military developments, the Sino/Soviet border, the Middle East military situation, and Cambodia. As a follow up the Subcommittee wants within about a week a paper on Soviet naval developments and the Soviet Swingwing bomber which the Chairman can make public. (See Memo for Record for details.)

25X1A
25X1A
25X1A
4. (Confidential - LLM) Met with Representative James Byrne (D., Pa.) in connection with the employment interest of [REDACTED]. Representative Byrne deferred completely to our judgment when I explained that we would inform the field and if there was interest [REDACTED] would be contacted, otherwise not. The Representative's personal comments and other information on [REDACTED]

25X1A
5. (Confidential - LLM) Obtained from Robert Horner, Chief Investigator, House Internal Security Committee, a subpoena and other related documents for [REDACTED] to show his present employer in connection with his scheduled appearance before the Committee in open session on 24 June.

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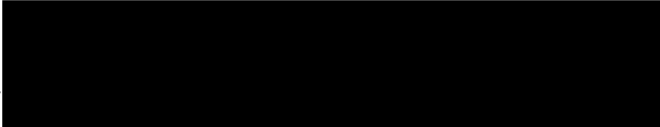
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14. (Confidential - JMM) Briefed Representative Donald Lukens on our S. 782 problems. Lukens was cordial and responsive and assured me he would push for a complete exemption in the Subcommittee.

15. (Confidential - JMM) Met with Frank Slatinshek, Assistant Chief Counsel, House Armed Services Committee, in connection with the Director's appearance tomorrow before the CIA Subcommittee of House Armed Services. Slatinshek said the Subcommittee had a number of items to take up tomorrow and would probably like our briefing to run not more than about an hour. He indicated that several Subcommittee members were seriously disturbed by the trend of events in Cambodia and would probably ask a number of questions about American involvement there.


16. (Unclassified - JMM) Representative Lee Hamilton's secretary called to say the Congressman would have to cancel our 3:30 appointment this afternoon. She said he would not be able to see me prior to his departure for Vietnam.



JOHN M. MAURY
Legislative Counsel

cc:
ER
O/DDCI



Mr. Houston
Mr. Goodwin
DDI DDS DDS&T
EA/DDP OPPB
Item 9 - SB
Item 10 - 

CONFIDENTIAL

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SECRET

JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Tuesday - 16 June 1970

1. (Confidential - JMM) Talked to William Timmons, Assistant to the President for Congressional Relations, regarding S. 782 (Ervin bill) and explained our concern. I said I would send over background material providing additional details. Timmons said he would be glad to have his staff review the matter and would let us know the results.

2. (Confidential - JMM) Discussed the S. 782 problem with Roger Jones, Assistant Director, Bureau of the Budget, who said he would pass the word to the Legislative Reference staff of the Bureau not to raise any objections to our proposed letter to Chairman Henderson without clearing it with Jones. Jones was not aware that the bill had passed the Senate.

3. (Confidential - JMM) Discussed S. 782 with Ken BeLieu, Deputy Assistant to the President for Senate Relations, who was not aware that the bill had passed the Senate but recalled our earlier conversations on the matter and said he would discuss it with William Timmons.

4. (Confidential - JMM) Called Wilfred Rommel, Legislative Reference, Bureau of the Budget, re S. 782 and explained that we were sending over today a proposed letter to Chairman Henderson with supporting material which we hoped would receive prompt attention. Rommel, who was not aware that the bill had passed the Senate, said he would follow up as soon as the material arrived.

5. (Confidential - JMM) Made appointments with Representatives H. R. Gross, Lee Hamilton, Edward Derwinski and Richard White, of the House Manpower and Civil Service Subcommittee of House Post Office and Civil Service Committee, to explain our problems with S. 782.

6. (Secret - GLC) John Clarke, D/OPPB, and I had a follow-up meeting with Ed Braswell, Senate Armed Services Committee staff, to provide him with further detail on proposed activities in Cambodia and Laos (see Mr. Clarke's Memorandum for the Record for details).

SECRET

citizen. The law enforces certain rules that protect the basic rights of individuals to life, liberty, and property. It sees that the will of the majority is carried out when that will does not violate the rights of any citizen. For this reason, liberty under law does not mean that everyone is free to do as he or she pleases, it means that freedom is qualified by responsibility, and that rights have reciprocal obligations.

And justice for all—Our system of government rests on two mighty pillars, the Declaration of Independence and the Constitution of the United States of America. This Nation was conceived with the bold words of the Declaration of Independence, the spirit of which is found in these words:

We hold these truths to be self-evident—that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of Happiness.

The union from which our country was formed was created by the Constitution of the United States, whose opening words are among the most important in the entire document:

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish the Constitution of the United States of America.

These two passages are brief, and their words are simple. Yet they are of deep and lasting significance. In them is to be found the fundamental expression of the American heritage, a deep and abiding faith in individualism, in freedom, and in equality.

Mr. Speaker, I hope that whenever Americans repeat this sacred pledge, they will think about the meaning of the words they are saying. If they do, I am sure they will be, as I am, eternally thankful for being an American.

Since the dawn of our independence, our national flag has been a vivid witness to great moments in America's history. It has also grown up, in a sense, as has the Nation. Initially, the flag with the original number of stars and stripes symbolized the formation of the Union, and its expansion from 13 uncertain, divided colonies, to a nation of global power and significance. With the addition of each new star, the flag has reflected the growing strength and dynamism of our great Nation.

Today, while the seeds of discord and dissent are being so visibly sowed across the land, I believe Americans should take time out from their daily activities, and reflect on the greatness of our country. Today, while revering our national flag, let us also revere the Union for which it stands, and dedicate ourselves anew to principles on which our Nation rests.

FLAG DAY

The SPEAKER. The Chair, speaking not only for himself but all Members of the House, desires to express our sincere thanks to the distinguished gentleman from Texas (Mr. Brooks), the chairman, and to the other members of the

Special Committee on Flag Day who arranged, conducted, and carried on the impassioned and most beautiful and inspiring Flag Day services presented in the House today.

The Chair also desires to express the sincere thanks of the Members of the House to those branches of the military services who today participated in the Flag Day ceremonies.

GENERAL LEAVE

Mr. HALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on Flag Day in general and the ceremonies in this House in particular.

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

There was no objection.

APPOINTMENT AS MEMBERS OF SELECT COMMITTEE TO STUDY FIRSTHAND THE RECENT DEVELOPMENTS IN SOUTHEAST ASIA

The SPEAKER. Pursuant to the provisions of House Resolution 796, 91st Congress, the Chair appoints as members of the Select Committee to Study Firsthand the Recent Developments in Southeast Asia the following Members of the House.

Mr. MONTGOMERY, from Mississippi, chairman, Mr. SMITH from Iowa; Mr. HAWKINS, from California; Mr. ANDERSON from Tennessee; Mr. HAMILTON from Indiana; Mr. MOLLOHAN, from West Virginia; Mr. ADAIR, from Indiana; Mr. ROBISON, from New York; Mr. KEITH, from Massachusetts; Mr. CLANCY, from Ohio; Mr. WATSON, from South Carolina; and Mr. HANSEN from Idaho.

CONFERENCE REPORT ON H.R. 16516, NASA AUTHORIZATION, 1971

Mr. MILLER of California submitted the following conference report and statement on the bill (H.R. 16516) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities and research and program management, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 91-1189)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16516) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities and research and program management, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration:

(a) For "Research and development," for the following programs:

- (1) Apollo, \$994,500,000;
- (2) Space flight operations, \$565,200,000;
- (3) Advance missions, \$1,500,000;
- (4) Physics and astronomy, \$116,000,000;
- (5) Lunar and planetary exploration, \$144,900,000;
- (6) Bioscience, \$12,900,000;
- (7) Space applications, \$167,000,000;
- (8) Launch vehicle procurement, \$124,900,000;
- (9) Space vehicle systems, \$30,000,000;
- (10) Electronics systems, \$23,900,000;
- (11) Human factor systems, \$18,300,000;
- (12) Basic research, \$18,000,000;
- (13) Space power and electric propulsion systems, \$30,900,000;
- (14) Nuclear rockets, \$38,000,000;
- (15) Chemical propulsion, \$20,300,000;
- (16) Aeronautical vehicles, \$87,100,000;
- (17) Tracking and data acquisition, \$295,200,000;
- (18) Technology utilization, \$4,500,000;
- (b) For "Construction of facilities," including land acquisitions, as follows:
 - (1) Ames Research Center, Moffett Field, California, \$1,525,000;
 - (2) Goddard Space Flight Center, Greenbelt, Maryland, \$1,928,000;
 - (3) Jet Propulsion Laboratory, Pasadena, California, \$1,950,000;
 - (4) John F. Kennedy Space Center, NASA, Kennedy Space Center, Florida, \$575,000;
 - (5) Manned Spacecraft Center, Houston, Texas, \$900,000;
 - (6) Marshall Space Flight Center, Huntsville, Alabama, \$525,000;
 - (7) Nuclear Rocket Development Station, Nevada, \$3,500,000;
 - (8) Various locations, \$18,575,000;
 - (9) Facility planning and design not otherwise provided for, \$5,000,000.
- (c) For "Research and program management," \$683,300,000, of which not to exceed \$506,108,000 shall be available for personnel and related costs.

(d) Appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used for construction of any major facility, the estimated cost of which, including collateral equipment, exceeds \$250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Astronautics of the House of Representatives and the Committee on Aeronautical and Space Sciences of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed

of ranting pacifists and goon hippies demanding peace at a price we dare pay only at our peril. The price is a country without a past, without any pride. The price is an America which is no longer the land of the free and the home of the brave. That is the price.

Match it with the cost. Are we to pull down the glory of Old Glory out of cowardice and give in to our enemies, abroad and at home.

No. Let Old Glory—that vibrant national symbol—let it forever fly, free and brave, as our people have always been, and, with God's mercy and guidance, will always be.

Mr. HOGAN. Mr. Speaker, as I rise to commemorate Flag Day and with my colleagues to honor the emblem of our Nation, I do so mindful of the times in which we live. The recent vision of the American flag being desecrated by contemptuous vandals has, I am sure, distressed and disgusted a majority of Americans.

I thank God that precedent to these episodes is a history and tradition of honor and glory which belies such acts and sustains the faith of those living and dead who defended the principles for which our flag stands.

On this occasion, I would like to offer thanks to those Americans serving in Vietnam and around the world, as well as those at home who have endured the hostilities, the criticism, and the doubt of these times. By their steadfastness and devotion they honor their country and their flag.

The times ahead will be troublesome as we search for the road to peace and stability at home and abroad. We must do so mindful, not only of our obligations, but also of our destiny as a nation and as a people.

Daniel Webster speaking in 1824 called our Nation the greatest republic of the earth, and he said, "we cannot obscure ourselves, if we would; a part we must take, honorable or dishonorable, in all that is done in the civilized world," and John F. Kennedy in his inaugural address said:

Let every nation know that we shall pay any price, bear any burden, meet any hardship . . . to assure the survival and the success of liberty.

The flag we honor today is the symbol to all of mankind of a nation which has dedicated itself to seeking for its people liberty, equality, and justice. We may not have obtained them to the degree that all would hope, but so long as we try, we may still hope to succeed.

It would be wrong of me to hold forth an image of America free from folly, grief, and trouble. Mixed with the blessings and the abundance of our land, with the progress and prosperity of our people, are also the tragedy and despair of war, poverty, and the well-being of all of our citizens, young and old. Stephen Vincent Benét seemed to strike to the heart of our destiny as a nation with these words from his poem "Nightmare at Noon":

"Oh yes, I know the faults on the other side,
The lyncher's rope, the bought justice, the
wasted land,

The scale on the leaf, the bores in the
corn.

The finks with their clubs, the grasp sky
of relief,
All the long shame of our hearts and the
long disunion."

He concluded:

"I am merely remarking—as a country, we
try.

As a country, I think we try."

We no longer live in a time when it is fashionable among some to demonstrate our patriotism. I suspect, nevertheless, that millions of Americans still feel a thrill go through them with the playing of the national anthem and the presentation of the flag. I do. It is perhaps a tribute to the confidence that each of us has in our country and in ourselves that we need no outward expression of the emotion we feel. Perhaps. But I, for one, often long for a more innocent time when a man like Henry Holcomb Bennett could without embarrassment write:

"Hats off!

Along the street there comes

A blare of bugles, a ruffle of drums;

And loyal hearts are beating high.

Hats off!

The flag is passing by!"

Mr. ANDERSON of California. Mr. Speaker, in the course of our lifetime, we detect many signs and symbols. The Star of David represents the history and faith of the Jewish people. To a Christian, the Holy Cross is a symbol of his faith. We realize the ideal of justice in the balanced scales. We light a candle to symbolize hope, and shake a hand to greet a friend. We experience, in the course of a lifetime, literally thousands of outward, visible signs which signify something invisible. Most signs have a cultural significance that excite a heartfelt response and objectify an inner feeling.

Patriotism is such a feeling. Since it is a personal emotion we are somewhat embarrassed to discuss it as we are other private thoughts. We, therefore, have the symbol of the flag through which we express our degree of love for country.

Soldiers salute "Old Glory"; citizens proudly display it; the Nation drapes its star-spangled badge over the remains of those who died for it. There are rules on how to display it, and respectful chords that accompany its hoisting and lowering. How we revere the Stars and Stripes reflects our attitude to our country.

To most Americans, no other man-made object gives the patriotic thrill and excitement as the flag of their country. Today, we are witnessing the brilliant pagentry of the posting of the colors and hear speeches honoring our Nation's flag. While we are mindful today of some who malign and overtly disrespect the great symbol of our Nation, we recall that the same flag is the symbol of Flanders Field, Bataan, Iwo Jima, and Normandy Beach.

Under the Stars and Stripes, a nation has been born, suffered its adolescence, and matured to become the "last best hope" of humanity. While we continue to seek an improvement of conditions in many needy areas of public concern, the flag reminds us of the successes of the past and gives us the hope that our problems can and will be overcome.

What makes us love our flag, our country? Surely, other men of other nations

love and admire their own flag as much. What is it about America and Americanism that elicits patriotism?

It is the idea of it. The encompassing idea of America is unique and superior to any other idea of nationality.

Thomas Jefferson and our founding fathers expressed it better than I:

We hold these truths to be self-evidence that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of happiness.

Through the symbol of the flag, we honor today the idea of America. As we view "Old Glory," we are mindful of its meaning for the past, and are hopeful for the furtherance of this idea of America for the future.

Mr. PRICE of Texas. Mr. Speaker, yesterday, June 14, was Flag Day. It marked the day in the year 1777 that the Stars and Stripes was adopted as our national banner. Today, special patriotic observances will be held throughout the country. Individuals of different races, creeds, colors, and ages will join in paying tribute to the United States as it is symbolized by our national flag.

The love and regard that the American people have for our Nation is symbolized by the pledge of allegiance to the flag. All Americans should pause while saying this sacred pledge today, and consider what each of the phrases means.

In my mind, the pledge of allegiance means many things:

I pledge allegiance—I promise loyalty to my country; because, since we live in a nation whose protection and privileges we enjoy, it is basic that we recognize the benefits we receive by being true to our Government and its ideals, and respecting and obeying its laws.

To the flag—our flag is our national symbol. It bears our national colors. It represents the proud spirit of America whether it is being flown over the U.S. Capitol, the sands of Iwo Jima, the paddles of Vietnam, or the roofs of our Nation's schools.

Of the United States of America—the "American's Creed" sums up the spirit of this country by stating:

I believe in the United States of America as a government of the people, by the people, for the people; whose just powers are derived from the consent of the governed.

And to the Republic for which it stands—We are a democracy within a republican form of government. Each American's voice can be heard through the ballot box. Each American can participate in the process of self-government.

One nation—We are a union established on the principles of freedom, equality, and justice. To preserve these ideals, American patriots have, for generations, sacrificed their lives and fortunes.

Under God indivisible—Having respect for a supreme being is at the heart of what America means. As Americans, we are free to worship God in any way we choose. This recognition of our universal dependence upon God, combined with our freedom of worship, is the wellspring of our Nation's strength.

With liberty—Liberty exists for each

Laird Said to Tighten Rein On the Joint Chiefs of Staff

WILLIAM BEECHER
Special to The New York Times

WASHINGTON, June 13—After 16 months of giving military leaders their head at the Pentagon, Secretary of Defense Melvin R. Laird has reportedly decided to rein them in.

The decision, according to a ranking Defense Department official, came during the height of the decision-making on operations into Cambodia and just after heavy American air strikes in North Vietnam the first week in May.

Sources familiar with the situation were reluctant to go into much detail, except to say that in the fast-moving Cambodian crisis, the formalized machinery of the National Security Council was largely bypassed and that there were frequent direct contacts between White House officials and members of the Joint Chiefs of Staff, with Secretary Laird feeling at times inadequately informed and involved.

Procedures Changed

"He had to reassert his leadership or lose control," said one department official. "He had a talk with the chiefs, with Henry Kissinger and with others." Mr. Kissinger is President Nixon's national security adviser and is regarded as a principal architect of the Administration's Cambodian strategy.

The official quickly added that Mr. Laird held no grudges over recent events and still had a good personal and working relationship with the Joint Chiefs of Staff and with Mr. Kissinger.

But following his talks with military and White House officials, two procedures were changed.

First, the Joint Chiefs were instructed that no military proposals on matters such as the incursion into Cambodia or the bombings of North Vietnam would be forwarded either to Mr. Laird or to other Government departments without first getting an opinion from the Pentagon's International Security Affairs office.

This office provides foreign policy guidance to the Secretary of Defense and his staff

and serves as liaison with the State Department on matters of common interest.

Second, the membership of the top-level Washington Special Action Group, commonly called WASAG, was expanded to include civilian specialists on Vietnam from the Pentagon and the State Department, as well as a ranking Joint Chiefs of Staff officer. The special action group is headed by Mr. Kissinger.

One of Mr. Laird's aides offered this explanation of recent events:

"When Mr. Laird became Secretary of Defense he tried to give greater initiative to the Joint Chiefs and the military services on policy and budgetary questions. He knew they would take it as far as he would let them, that they would test him to see how far they could go," the aide said.

In addition, the official said, White House staff members sometimes go outside channels to experts in various departments and agencies to get information as quickly as they can for their superiors. As he put it: "They're always testing each Secretary to see if he is running his department or not."

"As the crunch came in Cambodia," the official continued, "it became evident that dealings directly between the White House and the Joint Staff would continue to escalate, unless something was done."

"Mr. Laird felt it was time to say: Remember, I am Secretary of Defense and I respond to the White House, and White House on these kinds of things."

These kinds of things" dealt with the four heavy air strikes on supply dumps and air defenses, together with certain day-to-day decisions on attacks into Cambodia, according to several sources.

On the air strikes, military and diplomatic sources said that the raids had been approved at the White House, with Mr. Laird's knowledge.

But they said that some aspects—both of the specific targets and of the way the raids were staged—had not been known by Mr. Laird in advance, although they were clearly within the authority of military commanders.

Some officials suggest the air raids were staged on White House initiative to caution North Vietnam against doing anything rash in response to the Cambodian incursion and to convince Hanoi that the Administration was willing to "get rough" if North Vietnam should try to take advantage of sizable American withdrawals from Vietnam by staging a massive offensive.

To support this view, these sources insist there was no North Vietnamese anti-aircraft artillery or missile fire at American reconnaissance planes during the entire month of April. The raids were on May 2 and 3.

Others insist there was hostile fire during that period and that the military asked for the raids not only to suppress the

air defenses but also to destroy large stockpiles of gasoline, weapons and ammunition being stacked at four passes for shipment to the war zone.

As for the Cambodian operations, sources say that once a decision was made to attack the first two sanctuaries, subsequent decisions on raids into other areas were made by the Washington Special Action Group. Besides Mr. Kissinger, the group included David Packard, Deputy Secretary of Defense; U. Alexis Johnson, Under Secretary of State for Political Affairs; Richard C. Helms, director of the Central Intelligence Agency and Gen. Earle G. Wheeler, chairman of the Joint Chiefs of Staff, or in his absence, Adm. Thomas H. Moorer, chairman-designate.

In addition to General Wheeler and Admiral Moorer, the Joint Chiefs consist of Gen. William C. Westmoreland, Army Chief of Staff, and Gen. Leonard F. Chapman Jr., Commandant of the Marine Corps.

Sources say the whole operation was so secret—to avoid leak to the press—that all the staff work on specific questions was done by a handful of military men on the staff of the

Joint Chiefs, without the usual referral to civilian specialists in the State Department, the Pentagon and the Central Intelligence Agency.

One official said: "Without independent staff work, the members of WASAG didn't know the implications of certain proposed actions in Cambodia. So the group became, for a brief confused period, a kind of rubber-stamp group."

Special Group Expanded

As a result of resentment on the part of officials at both the Defense and State Departments, sources say, the Special Action Group was expanded to include Marshall Green, Assistant Secretary of State for East Asian and Pacific Affairs; Dennis J. Doolin, a Deputy Assistant Secretary of Defense specializing in Indochina, and Lieut. Gen. John W. Vogt, director of operations for the Joint Chiefs of Staff.

Defense Department officials say that in light of this experience, Mr. Laird may be receptive to a proposal to reorganize the Joint Chiefs, expected to be recommended soon by a special blue-ribbon panel that has been looking into ways to improve efficiency within the Defense establishment and to

make its many arms more responsive to the wishes of the Secretary of Defense.

By law, the five Joint Chiefs are the military advisers both to the Secretary of Defense and the President. But by long practice, they normally have made recommendations through the Secretary of Defense.

The Joint Chiefs are restricted by law to a staff of 400 military men. But in the belief that this was inadequate to fulfill their task of making recommendations on military strategy, tactics, levels of forces and weapons and of drawing up contingency plans for potential crises all over the world, the

NIXON IS REBUFFED BY SENATE, 52-47, ON CAMBODIA ISSUE

It Rejects Byrd's Proposal to Modify Effort to Curb New Military Forays

A COOPER-CHURCH GAIN

Amendment's Backers Add Clause Denying Aim Is to Cut President's Power

By JOHN W. FINNEY

Special to The New York Times

WASHINGTON, June 11—

In a rebuff to President Nixon, the Senate refused today to modify proposed legislative restrictions on future American military operations in Cambodia.

By a vote of 52 to 47, the Senate rejected a proposal to declare that the President, under his authority as Commander in Chief, could retain troops in Cambodia if he thought such action necessary to protect the safety of American forces in Vietnam. The proposal had been offered by Senator Robert C. Byrd, Democrat of West Virginia, and endorsed by Mr. Nixon.

The vote provided the clearest test of the sentiment in the Senate for imposing legislative restrictions on the President's authority to involve the nation in military action in Cambodia without the consent of Congress.

July 1 Deadline Proposed

Such restrictions are embodied in the pending amendment offered by Senators John Sherman Cooper and Frank Church to a bill on foreign sales of weapons. The amendment would prohibit the President, in the absence of Congressional approval, from spending any funds after July 1—the deadline set by Mr. Nixon for withdrawal—for retaining United States forces in Cambodia, for providing military advisers or combat air support to the Cambodian forces and from financing the pay of forces from third countries going to the aid of the Cambodian Government.

The effect of the vote today was to reinforce expectations that the Senate, trying to reassert Congress's war-making powers under the Constitution, would eventually approve the bipartisan Cooper-Church draft. Mr. Cooper is a Kentucky Republican and Mr. Church an Idaho Democrat.

Throughout the four-week debate, the discussion has focused on whether the amendment would infringe upon the President's constitutional powers as Commander in Chief.

In an attempt to clarify the issue—as well as to obtain support in a close vote—the Cooper-Church forces added a provision today specifying that nothing in the amendment “shall be deemed to impugn the constitutional powers of the President as Commander in Chief.”

The provision, offered by Senator Mike Mansfield, the

majority leader, was adopted by a vote of 91 to 0.

The unanimous vote made it apparent that there were differing interpretations about the legal effect.

Many supporters of the Administration obviously voted for the provision on the premise that it, like the Byrd amendment, would permit the President to bypass the legislative restrictions in the Cooper-Church proposal. The forces backing the amendment maintained that the provision only made explicit what they have contended throughout the debate—did not and could not add to or detract from the President's powers as Commander in Chief.

Senator Church explained that the President could undertake such operations as “hot pursuit” of Communist troops, rescue operations for prisoners or downed pilots, or “temporary incursions that may be necessary to protect American troops from immediate danger.” But, he contended, the President could not send American forces into Cambodia for “a sustained period of time” without obtaining the approval of Congress.

Shift in Burden of Proof

The Senator conceded that as a practical matter there was no way Congress could prevent the President from ordering troops back into Cambodia in another operation against Communist sanctuaries. But with the amendment, he argued, the burden of proof that such action was necessary would be on the President.

While the Mansfield provision was added as a statement of constitutional principle, the Byrd amendment, in the opinion of the Cooper-Church forces, was advanced as an escape clause. The Byrd proposal

specified that the provision against retaining forces in Cambodia “shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam.”

Mr. Byrd contended that his amendment was intended only to clarify the authority of the President as Commander in Chief. Mr. Church objected that the effect was to grant a waiver that would eliminate the substance of the limitations in the Cooper-Church amendment.

“The real issue is to preserve the dignity and integrity of the constitutional role of Congress,” Mr. Church declared. “We stand up now or roll over and play dead.”

President Nixon, in a letter last week to the Senate Republican leader, Hugh Scott, said the Byrd Amendment, by reaffirming the constitutional duties of the Commander in Chief, “goes a long way toward eliminating my more serious objections to the Cooper-Church amendment.”

White House in Denial

In the wake of the vote the White House seemed to be attempting to back away from its association with Mr. Byrd's proposal. Asked for comment, the Presidential press secre-

tary, Ronald L. Ziegler, contended that while Mr. Nixon had expressed his point of view, “we have not endorsed any amendments.”

Senator Scott, according to Senate sources, had insisted that the letter was necessary to win support for the Byrd amendment. The effect of the letter was to turn the vote today into something of a test

of confidence for the President and his Cambodian policies.

In the vote, 39 Democrats and 13 Republicans opposed the Byrd amendment and 29 Republicans and 18 Democrats supported it.

Until last night Senate Republican and Administration officials believed that it would prevail by one or two votes, but this morning two Senators whom they had been counting upon—Henry M. Jackson, Democrat of Washington, and B. Everett Jordan, Democrat of North Carolina—decided to vote in the negative.

The intensive student lobbying in recent weeks apparently had some effect, particularly on Senator Jordan, who had told a group of North Carolina college students that he believed legislative steps should be made to get the United States out of Vietnam.

He then ran into editorial criticism from North Carolina papers when he joined his colleague, Senator Sam J. Ervin Jr., in endorsing the Cambodian operation.

In a statement today explaining his vote, Mr. Jordan referred to his meeting with the

students and said that he had decided the war in Southeast Asia “ought to be broadened only with the consent of Congress.”

gressional Quarterly inferentially libels, including myself, reported no holdings simply because they have only nominal net worth or have no holdings in any company doing business with, or regulated by, the Federal Government.

Others made negative reports after electing to divest themselves of their holdings in a very depressed market rather than endure continuing unfounded abuse. Still others rearranged their portfolios for the same reasons. Any of these reasons are totally legitimate toward the objective of financial disclosure and therefore do not exist as a result of loopholes.

It is difficult for me to believe that such elementary analysis of either the rationale of disclosure or the reasons for 160 negative reports could have eluded Congressional Quarterly's editorial judgment. If that is reasonable, it is even more difficult to justify Congressional Quarterly's conclusions, with no declaration to Congressional Quarterly's assumptions, as a legitimate exercise of freedom of the press.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 10 minutes.

[Mr. GONZALEZ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FARBSTEIN) is recognized for 20 minutes.

[Mr. FARBSTEIN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

REPORT ON ACTIONS OF THE CONGRESS

The SPEAKER pro tempore. Under previous order of the House, the gentleman from New York (Mr. ADDABBO), is recognized for 15 minutes.

Mr. ADDABBO. Mr. Speaker, every year at my own cost and expense I have sent out to my district a report of the actions of the Congress. Earlier this year I sent out over 180,000 reports, together with a questionnaire, which is presently being tabulated. As we reach the half-way mark of this second session I believe it would be well to reflect on some of the actions we have taken. Some of the highlights of a national and international nature and the actions I have taken thereto, I believe, can be categorized as follows:

INDOCHINA

I have sponsored several resolutions calling upon the President to accelerate the withdrawal of our troops from Vietnam and expressing my position against the sending of troops to Cambodia, Thailand, Laos or North Vietnam without a declaration of war or a Joint Resolution of Congress. Our Nation has already met its original commitment to South Vietnam and now we must bring our forces home safely and speedily. Only in this

way can we concentrate on reuniting a Nation badly divided at home.

MIDDLE EAST

I have made several statements on the crisis in the Middle East in order to urge a clarification of U.S. policy in that troubled area. I have repeatedly called upon the President to act favorably on Israel's request to purchase Phantom and Skyhawk jet aircraft. In addition to my support for military assistance to Israel, I have called for a more forceful U.S. policy within the United Nations against Arab terrorism, against the presence of Soviet personnel in Egypt and in support of the sovereignty of the State of Israel.

ENVIRONMENT

The threatened destruction of Jamaica Bay continued and efforts to extend runways at Kennedy Airport into the bay have increased. For these reasons I have taken a strong stand against any further construction at Kennedy Airport. I recently testified before a special committee of the National Academy of Sciences urging that the bay area and its residents be protected against increased air and water pollution, aircraft noise, and air traffic congestion which threatens to make this area uninhabitable for future generations.

SOCIAL SECURITY

I have sponsored broad legislation to increase benefits and improve health insurance programs under social security. Congress did pass a 15-percent social security increase at the close of last year and the House recently approved another 5-percent increase with an automatic adjustment for future increases in the cost of living. These measures were part of the bill I sponsored and I am hopeful that other improvements in these programs will be made shortly.

THE ECONOMY

Runaway inflation and tight money policies have disrupted the Nation's economy. I am particularly concerned about increasing unemployment statistics and the impact of high interest rates on the housing industry. I have sponsored legislation designed to bring about lower interest rates and provide incentives for the construction of needed middle- and low-income housing units in our city and in the Nation.

CRIME AND NARCOTICS

The entire system of law enforcement, the judiciary and citizen education have gone without our attention for too long. I have supported programs to educate our young people about the dangers of narcotics and drug abuse and to create additional treatment centers and after care programs for addicts. In addition I have voted for or sponsored legislation to appropriate additional funds for local law enforcement agencies and research in crime control.

TRANSPORTATION

I have sponsored bills to provide additional funds for public transportation in order to improve our city's subway and commuter system. I have also been in the forefront of the battle to find a site for a fourth jetport to serve the New York area and relieve Kennedy of the

dangerous and disruptive air traffic congestion and related problems.

COMMITTEES

I continue to serve on the important House Appropriations Committee and Select Committee on Small Business. These assignments afford me a unique opportunity to participate in the major decisions which affect the Nation's priorities at home and abroad and to speak for you in the debate about these priorities.

This is a time of crisis in America—a time when the rule of reason is being tested by dissenters at opposite ends of the political system. It is my hope that our system will rise to the occasion by meeting these challenges with imaginative and just solutions to real problems. I am always available to discuss these issues with you and to hear your views and suggestions.

REPORT OF THE PRESIDENTIAL FACTFINDING COMMITTEE FOR SOUTHEAST ASIA

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, at the request of President Nixon, four Members of the Senate, four Members of the House of Representatives, and the Governors of three States last week completed a factfinding mission to South Vietnam and Cambodia. Upon return the group submitted a report to President Nixon at a meeting in the White House yesterday.

Members of the House delegation on the panel were, besides myself, Mr. FISHER, of Texas, Mr. BRAY, of Indiana, and Mr. WITEHURST, of Virginia.

I submit herewith to my colleagues the report which the committee made to the President:

REPORT OF THE PRESIDENT'S FACTFINDING COMMISSION ON SOUTH VIETNAM, JUNE 10, 1970

At the request of the President, our group undertook a whirlwind journey to Southeast Asia, leaving Washington, D.C. on June 3, 1970.

From June 5 through June 8, we met in South Vietnam and Cambodia with senior U.S. and South Vietnamese civilian and military leaders and with American and ARVN soldiers in the field. We visited villages and hamlets. We met with enemy defectors. We ranged into active battle areas. We visited with Cambodian soldiers. We were at liberty to see and talk with anyone we wished in regard to any aspect of the war.

Some of the group concentrated on the pacification program while others went into battle areas. Others visited Cambodia's capital. Some consulted veteran reporters in the area. While the visit was much too brief to be conclusive, most of us are agreed on the following broad points.

1. The Cambodian operations are militarily successful, certainly for the short term. Huge quantities of enemy arms, equipment, ammunition and foodstuffs have been captured. More than 10,000 of the enemy forces in Cambodia—an estimated one-fourth of the total—have been destroyed. Enemy command and logistical systems have been disrupted. Especially in the III and IV Corps Tactical Zones, the enemy's capability to conduct large-scale operations within South

Vietnam has been substantially reduced for at least six to eight months. The confidence and morale of South Vietnamese forces have been undergirded by their proven mettle in battle and—as one top U.S. leader reported to us—as they have demonstrated a capability for combined force operations not deemed obtainable for at least two more years. The American servicemen we encountered also responded enthusiastically to this combat initiative.

We are agreed that the attack on the sanctuaries has produced important immediate dividends for the U.S. and South Vietnam.

2. We are most favorably impressed with the leadership of our own and ARVN military forces, and with the competence and dedication of State Department personnel in Saigon. Ambassador Bunker and General Abrams are extraordinarily able and effective leaders for our country. Our troops in the field are magnificent.

3. Military planning in Saigon, as in Washington, is firmly set on the removal of American forces from Cambodia by the June 30 deadline set by the President. All leaders we met with agreed that, due at least in some measure to the Cambodian operation, the scheduled U.S. troop withdrawals can safely and surely proceed. We conceive and hope that in coming months an acceleration of withdrawals may even become possible. Some ARVN forces will likely remain in Cambodia for an additional time to complete the very arduous task of locating enemy caches and removing or destroying the captured materiel. South Vietnamese leaders, both military and civilian, disavow any intention to position ARVN troops permanently in Cambodia or to allow any of their Cambodian activities to impair the Vietnamization and pacification programs within South Vietnam. They firmly state, however, that an enemy attempt to reconstitute the sanctuaries will provoke an ARVN re-entry.

4. U.S. embroilment in a wider war in Cambodia is not contemplated or expected by any of the top American or Vietnamese leaders we consulted on this trip. To the contrary, all of these leaders freely acknowledged the fact that June 30 is the deadline for the removal of all U.S. ground forces, including advisers, from Cambodia. ARVN forces will not be employed in Cambodia, according to our authorities, without the consent of the Lon Nol government. We are assured that U.S. support for ARVN forces will not be allowed to underwrite adventurist efforts in Cambodia by the ARVN at the expense of our objectives for South Vietnam.

5. There is noteworthy progress in the military and civilian aspects of Vietnamization, auguring well for U.S. disengagement and the long-term viability of South Vietnam.

On the military side, 115,000 Americans have left, and 150,000 more are to come home by next May. The Vietnamese are proudly taking their place. We were greatly pleased by the confidence—indeed, eagerness—of Vietnamese military leaders to assume their expanding role, despite the consequent marked reduction in U.S. casualties and the sharp increase in theirs. The Delta area—"the backbone of the nation," as a top American leader described it to us—is now wholly under Vietnamese military direction, our 9th Division having been withdrawn. Other important military areas have been moved under Vietnamese direction, including the defense of the Saigon area. Vietnamese military training has been increased by 30 percent and their military trainees in the U.S. tripled, including especially Air Force pilots—a skill at which the Vietnamese excel, according to reports volunteered by a number of our own military leaders.

On the civilian side of Vietnamization—the pacification program—progress is also encouraging. Our meetings with province and

hamlet chiefs and our visits to representative villages were particularly rewarding in revealing the crucial role of local courage and leadership in regaining control in this nation so long undermined by subversion, terrorism, and war. The Vietnamese Popular Force units, roughly comparable to our civilian components, are sharply on the increase. Some 350,000 of the People's Self-Defense Force are now armed, forcing the Viet Cong to wage war on the people as well as on regular military units. Territorial Security Forces, now more than 500,000 men, are attaining a 3-1 weapons capture ratio today as contrasted to a 1-3 ratio only two years ago. The roads, the waterways, the railroads are improved and are increasingly secure in ever wider areas. Enemy recruitment in South Vietnam is sharply down, so that almost three-fourths of enemy combat strength in this region now consists of North Vietnamese—a proportion almost exactly reversed from what it was in earlier phases of the war. Enemy defections were almost 40,000 last year, and our leaders anticipate tens of thousands more this year. Elections have been held in over 90 percent of the villages and hamlets and other important elections are near at hand—a presidential election next year, half of the Senate this fall, and 44 provincial councils this month. President Thieu is pressing for more election improvements, including a run-off requirement for the presidential election in 1971, and is attempting to develop coalition groups to reduce the political party proliferation in South Vietnam.

Noteworthy, indeed, we believe, is the continuing enthusiasm of village and hamlet chiefs to stand for election despite the obvious perils of these leadership positions targeted by the Viet Cong. In IV Corps we learned that despite an assassination rate of 8-12 a month, 82 percent of these 16,000 elective officials chose to run again, and 50 percent of them were reelected. Significant also is the fact that the newer leaders are younger and better trained.

In sum, we have both seen and felt an increasing vitality and confidence in this hard-pressed country. We share the conviction of our leaders in Vietnam that the present prospects are more promising than at any previous time during our long involvement in this war.

6. We were pleased especially by reports given us by our own leaders and President Thieu on the "Land to the Tiller" program, which promises to have a revolutionary social and economic impact throughout this country. This program, signed into law by President Thieu on March 26, is devised to end land tenancy and ultimately will distribute 2.5 million acres—60 percent of the cultivated riceland in Vietnam—to more than 800,000 rural families. Next month a series of two-week training programs will begin for 4,000 village officials who must administer this program. President Thieu expressed great enthusiasm for this far-reaching effort both for its intrinsic merit and for its countervailing influence against Communist land-redistribution propaganda. Our group commends his initiative and shares his enthusiasm.

7. Despite the heartening advance of Vietnamization, the improved operational capabilities of the RVNAF, the potential of land reform, the severe logistical embarrassments of enemy forces, the immediate tactical success of the Cambodian operations and the gathering strength of the Vietnamese political structure, we must not exclude the possibility of significant setbacks in the progress we have noted in Vietnam. Historically, there have been heartbreaks there, and this young republic will doubtless suffer more of them as an implacable enemy persists for an indeterminate time. An important indicator in coming months will be the manner in which the Republic of Viet-

nam measures up to these adversities. From the indications available to us, we deduce that the South Vietnamese have the tenacity and courage, and now hopefully have the time, to win their long struggle for survival.

8. Particularly for those among us who have been previously in Vietnam, the evidence of progress, military, economic, and political, is plainly evident. The clear impression we carry away with us from this brief but intensive survey is that at last in South Vietnam one can discern a genuine prospect for self-defense, a strengthening promise of political viability, and a growing spirit of confident nationhood. We prayerfully hope, and most of us believe, that all of this will be enhanced by the bold move into enemy havens in Cambodia.

9. On leaving this tormented region, we conclude that the objective of our country must continue to be neither military victory nor an indefinite continuance of our participation, and assuredly not an enlargement or broadening of our military role in Southeast Asia, but rather an orderly withdrawal of American personnel in phase with the mounting capability of the South Vietnamese to assure their own security and lead their own lives in their own way.

Approved by: Governor John Love, Governor Raymond Shafer, Senator Howard Cannon, Senator George Murphy, Representative William Bray, Representative O. C. Fisher, Representative Melvin Price, Representative William Whitehurst.

NATIONAL SOJOURNERS GOLDEN ANNIVERSARY CONVENTION

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

Mr. SIKES. Mr. Speaker, I take pleasure in calling to the attention of the House the fact that the National Sojourners will, during this month, celebrate that organization's golden anniversary convention. The occasion will be observed on June 24-27 at Columbus, Ohio.

The National Sojourners, Inc., is an outstanding organization whose membership is made up of commissioned officers and warrant officers, both active and retired, of the Armed Forces who are Master Masons. As would be anticipated, their principal purposes are to cultivate Masonic ideals, to support patriotic aims and activities, to develop true patriotism and Americanism, to bring together members and former members of the Armed Forces of the United States in efforts to further national defense, and to oppose influences calculated to weaken the national security.

National Sojourners believe in God as the Supreme Architect of the Universe. They hold that political, economic, and social problems are subsidiary to and ever separate from that steadfast belief in God.

They maintain that God must motivate man if present-day problems are to be solved, and urge active participation in maintaining that Government for which our forefathers fought.

National Sojourners remember that George Washington once said:

When we assumed the soldier we did not lay aside the citizen.

Gov. James A. Rhodes of the State of Ohio has proclaimed June 24-27, 1970 as National Sojourners Week in Ohio. He

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EXTENSIONS OF REMARKS

AMENDMENT OF THE FOREIGN
MILITARY SALES CUT

SPEECH OF

HON. ROBERT C. BYRD

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, June 10, 1970

(Senate proceedings omitted from the Record of June 10, 1970, on page S8793.)

I think the President has that authority and is exercising it now. I think that this is already being done. It seems to me that one of the cosponsors of the Cooper-Church amendment—I believe the Senator from Kentucky—indicated that the President can do this now, that we can send men across the border in hot pursuit, that we can do this in Laos, that we can do it in Cambodia. This can be done and has been done without the Byrd amendment.

Mr. SPONG. The second one is as follows:

To destroy enemy supplies, staging area, headquarters, and so forth, in a relatively narrow zone along the Cambodian-South Vietnamese border? This contemplates a zone into Cambodia of approximately 20 miles in width.

Mr. BYRD of West Virginia. This contemplates a set of circumstances similar to those in which the President ordered troops into Cambodia on April 30. He did so in that instance, in my judgment, through the proper exercise of his constitutional powers, and I think the cosponsors of the Cooper-Church amendment have agreed. So, the President, having done it then, in the proper exercise of his constitutional authority, he can do it again. And he can do it entirely without the language which is in my amendment, and which gives him no new authority. Insofar as his authority is concerned, it would be derived from the Constitution; and whether he would have the money to exercise his authority depends on what we do about paragraph (1) of the Cooper-Church amendment.

Mr. SPONG. Would he have the authority to do it under the Cooper-Church language without the Byrd amendment?

Mr. BYRD of West Virginia. The Cooper-Church language does not add to nor take away any of the constitutional authority that the President possesses. But indirectly—and I think quite effectively—it could inhibit his exercise of that authority if it cuts off the funds. To that extent I think the Cooper-Church amendment could in some hypothetical situation prevent him from the proper exercise of his constitutional authority.

Mr. SPONG. Does the Senator from West Virginia believe that his modification would remove that inhibition from the present language of the Cooper-Church amendment?

Mr. BYRD of West Virginia. Yes, I do. Mr. SPONG. Would the Senator address himself to the third question: "To attempt to find and engage any enemy troops within the zone just described, ir-

respective of whether they are on the verge of entering South Vietnam or whether they are just returning from it"?

Mr. BYRD of West Virginia. I think all of these questions were asked in the context of the Byrd amendment: If the Byrd language is adopted, can he do this and can he do that, and can he do something else?

Mr. SPONG. Yes, that is true.

Mr. BYRD of West Virginia. The answer to the third question would be that he can do only that which he determines to be necessary for the protection of American troops in South Vietnam; and he has the constitutional duty and authority, it seems to me, to do this regardless of the Byrd language. So if he determines that this set of circumstances, which the Senator has outlined, presents a clear and present and immediate danger to the lives of American troops in South Vietnam, it seems to me that, entirely aside from the Byrd language, the President has the constitutional authority and the duty to take whatever action is necessary to remove that danger to our troops and to protect the lives of our troops.

I simply think that the Cooper-Church language, through this requirement for enactment of a bill appropriating moneys, would, to that extent, place a limitation on the President's authority. My amendment seeks to remove that limitation.

Mr. SPONG. I take it, then, that the Senator's answer to the third question would also apply to questions 4 and 5.

Mr. BYRD of West Virginia. In an extremely exaggerated and unlikely hypothetical situation, I suppose it could, but not by virtue of the Byrd amendment—by virtue only of the President's constitutional authority, which was given to him by the makers of the Constitution.

I cannot envision a situation in which the circumstances described in questions 4 and 5—particularly 5—would arise, if we are to believe what the President says, if we are to have faith in his expressed intentions. But if it were to arise, he could only act in the proper exercise of his constitutional authority to protect the lives of American troops in South Vietnam.

Mr. SPONG. I would say, first, to the Senator from West Virginia that I do not believe the President contemplates any activity such as is described under questions 4 and 5. But when we consider either of the Senator's modifications, we must do so within the context of the Cooper-Church amendment. I am of the opinion that the addition of the Senator's language to the Cooper-Church enactment could be interpreted as giving authority for any of the situations I have hypothetically described, 1 through 5.

I am most appreciative of the time the Senator from West Virginia has taken in answering these questions. I thought I should ask these questions before he made any further reply.

Mr. BYRD of West Virginia. I thank the Senator from Virginia. His questions are incisive. But I use his words "giving authority" in such a hypothetical situation. The Byrd language gives no new authority. It simply attempts to prevent the Cooper-Church language in paragraph (1) from building a fence, as it were, around the President's constitutional authority and saying he may go only thus far or that far and, then, only if he can get the moneys with which to do so.

My amendment tries to make an exception as to where that line shall be drawn, that exception being where American lives are in danger in South Vietnam. The President already has constitutional authority to act in such a case. But he has to have money.

Let us say the hypothetical situation is brought into existence. If the Cooper-Church language is adopted without the Byrd amendment, it could very well mean that, as a result of the lack of funds, the President could not exercise his constitutional authority as Commander in Chief to protect the lives of American boys in South Vietnam, because, again, there would be those who would interpret the language this way and those who would interpret it another way. The Cooper-Church language is subject to definition.

So while Congress argues about interpretation of the language and argues about appropriating money, the hypothetical situation gets out of hand, and American boys in South Vietnam are attacked and their lives imperiled. That is what the Byrd amendment seeks to avoid.

Mr. SPONG. I think the Senator from West Virginia, the Senator from Kentucky, and the Senator from Idaho are striving in many ways toward the same objective. I think what the proposed legislation seeks to do is to spell out the collective will of the Senate in redefining the geographic area within which the presidential power or authority might be applied in the exercise of the President's position, under the Constitution, as Commander in Chief.

I am seeking, in these exchanges, to focus on the clearest language we might agree upon consistent with both legislative and presidential prerogatives. I might say to the Senator from West Virginia that the situation he has described, where we could become tied up in appropriations snarls while some decision is to be made, is not envisioned by the sponsors of the Cooper-Church amendment, if I understood them correctly this morning.

Certainly, not in the situation described in question one, probably not in No. 2, and all concede that No. 3 is a gray area; but I seek—a specific recital—and this is difficult to determine—of what the presidential authority is.

In short, I believe that the Senate does not wish to tell the President how he should function as Commander in

Chief, but to say, for the time being, where he should function as Commander in Chief until there is further consultation with the Senate.

Mr. BYRD of West Virginia. If the lives of American servicemen were not involved, it might be an easier question to dispose of. But I do not think that we can say, here and now, that the President may go 20 miles, but that he may not go 21 miles. I do not think that we can say he is properly exercising his constitutional authority if he goes 20 miles, but that if he goes 2 kilometers farther, he is not acting in the proper exercise of his constitutional authority.

I do not think that we can delineate this constitutional authority in such a nice way. We must really look at what is before us. The Cooper-Church language says this, "unless specifically authorized by law."

I do not know what the cosponsors of the amendment said earlier today. I was not here. I can read it overnight. I am referring to the Senator's having alluded to what they said.

Mr. SPONG. That is my interpretation. Of course the Senator from Idaho is here.

Mr. CHURCH. Mr. President, may I be heard?

Mr. BYRD of West Virginia. I do not know what was said, but I look at the language of their proposal and it reads thusly, "unless specifically authorized by law hereafter enacted." Those words are clearly understood: "unless specifically authorized by law hereafter enacted, no funds"—that means not 50 cents, not \$1—"no funds authorized or appropriated pursuant to this act or any other law may be expended for the purpose of retaining U.S. forces in Cambodia."

Taking the hypothetical situation discussed earlier, if it is necessary for the President to act to protect the lives of American servicemen in South Vietnam, he has to have money. Tactical operations in Cambodia cost money even when executed for the protection of American servicemen in South Vietnam. But this language says, "No funds authorized or appropriated pursuant to this act or any other law may be expended for the purpose of retaining U.S. forces in Cambodia," period. And regardless of whether forces are retained in Cambodia for the protection of the lives of American servicemen in South Vietnam. The Byrd language simply attempts to hammer out one exception to that prohibitive language. It does so in an effort to deal with that situation in which the lives of American servicemen might be endangered.

Mr. SPONG. I thank the Senator from West Virginia. I think there should be an exception, and I appreciate his efforts in that direction. I happen to believe, as I have expressed to the Senator, that the exception should be more specific, if we are to have it.

Mr. BYRD of West Virginia. I respect the viewpoint of the able Senator from Virginia. When we attempt to deal with specifics, then we are in another quagmire. One Senator wants this specific and another wants that item specified. I think the best we can do is not to authorize any new authority nor attempt

to be so specific as to say it will be 20 miles but not 21 miles; we should simply make the exception, so that the President is clearly not precluded from exercising his power under the Constitution for the protection of our servicemen in South Vietnam.

I am fearful that if the Cooper-Church language is adopted as written, the enemy will get the wrong message, or perhaps, it will be the right message—to wit, he can come back into those sanctuaries and before the President can order a man across that border, the President will have to come back to Capitol Hill and go through all of those circuitous labyrinths of exercises that must be executed before moneys can be appropriated. In the meantime, the enemy will have ample opportunity to attack or withdraw.

Mr. CHURCH. Mr. President, will the Senator from West Virginia yield?

Mr. DOLE. Mr. President, will the Senator from West Virginia yield?

Mr. BYRD of West Virginia. I yield now to the Senator from Idaho, and then I shall be happy to yield to the Senator from Kansas.

Mr. CHURCH. The fundamental difficulty stems from the fact that we are engaged today, and have been for many years, in a limited war in Southeast Asia. Our purpose has not been to invade or conquer North Vietnam. Our purpose has been to protect the Government of South Vietnam against the attempt of the Vietcong and the North Vietnamese to overthrow it. Thus, from the beginning, both the President and Congress have been faced with the dilemma of where to draw the line.

Up until now, Congress has left that determination entirely to the President, and those who support the Cooper-Church amendment believe that the time has come for Congress to share with the President the responsibility of drawing outer limits to this limited war.

We want to leave Cambodia outside those limits, doing this in a way that conforms to the President's own expressed intention to withdraw American troops from Cambodia by the end of June.

After June 30 has passed, we recognize there might be occasions when the President, in the proper exercise of his Constitutional authority as Commander in Chief, might have to take an action that would breach the Cambodian borders temporarily to protect American forces in the field.

We do not, however, want to fix a limit, and then write into that limitation an exception which would later be used as constituting prior congressional consent to a large or prolonged military return on our part to Cambodia.

I am unable to see why the purposes of the Senator from West Virginia—who is concerned about American troops in Vietnam, but no more so than the Senator from Idaho—could not be served by simply writing a proviso at the end of this Cooper-Church language to the effect that nothing in it does what we cannot do anyway, which is to impair the constitutional authority of the President as Commander in Chief.

Mr. BYRD of West Virginia. Mr. Presi-

dent, I think that is what my amendment does. It is perhaps a question of semantics. It does precisely that. It says that nothing in the Cooper-Church language impairs the constitutional authority of the President as Commander in Chief to act under certain circumstances—to wit, when our men are endangered in South Vietnam.

Mr. CHURCH. But the Senator goes further. I want to question him about some of his other language. For example, he says in the modified version of his proposed amendment:

And the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam.

First of all, it strikes me as being demeaning to Congress to write into law a request that the President come to consult with Congress. Second, who are the congressional leaders with whom the President should consult? Third, when is the consultation to take place?

Is it to take place at a time that would be meaningful, so that the advice of these leaders could be taken into consideration by the President. Or will consultation occur at the very moment of decision, when it would be nothing more than a method for conveying to the congressional leaders that new action is underway?

All of this is left unanswered by the language of the Byrd amendment. And for the record, I think answers should be supplied.

Questions of this kind, however, suggest that there is a cleaner way to achieve the Senator's purpose, such as adding a proviso at the end of the Cooper-Church language to the effect that nothing in the amendment impairs the constitutional authority of the President as Commander in Chief.

Mr. BYRD of West Virginia. Then the Senator would raise hobgoblins and ghosts with respect to everything that went before the proviso, which would not only include paragraph (1), but also paragraphs (2), (3), and (4). And the same question as to the hows, whys, and whens would be applied to the proviso.

Mr. CHURCH. The language I suggested would relate to subparagraph 1, and not to the other subparagraphs of the amendment.

Mr. BYRD of West Virginia. Mr. President, I thought the Senator said the proviso should be at the end of the Cooper-Church language.

Mr. CHURCH. The Senator is right. I meant, however, at the end of subparagraph 1.

Mr. BYRD of West Virginia. Mr. President, the Senator says that for the President to be requested to consult with congressional leaders would be demeaning to the President.

Mr. President, this is precisely what much of the argument has been about all along—the sponsors of the Cooper-Church amendment want the President to consult with Congress.

Of course, I want him to consult with Congress. He made a mistake in not consulting with Congress about his April

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30 action. That was a tactical legislative blunder.

He should consult the Congress when the circumstances permit him to do so.

There could be a hypothetical situation in which he could not consult with Congress. Perhaps he would have time only to press a button. I do not envision this with respect to South Vietnam, however. We were talking about having the President consult with Congress. I added this language in response to the legitimate concern expressed by at least two Senators who felt that there ought to be something in this amendment which would deal with consultation. So it was included.

I do not consider it to be demeaning. It does not require him to consult. It is not mandatory. It is only permissive. I think that he would do it without the language, certainly in the face of his experience following his April 30 action.

I see nothing demeaning about requesting that this be done. This is terminology that is often used in Federal statutes, that so and so is requested to do so and so, to make such and such a report.

I do not consider that to be demeaning.

As to the identity of the congressional leaders, that would be up to the President. If I were to attempt to define the congressional leaders, I would certainly include the majority and minority leaders of both houses. Whether the President would want to go beyond that would be up to his discretion. But this would help to cure the situation.

Mr. CHURCH. Mr. President, would the Senator include the chairman of the Committee on Foreign Relations?

Mr. BYRD of West Virginia. Mr. President, the President could include him. When I start to include him in the amendment, why should I not include the chairman of the Appropriations Committee?

Mr. CHURCH. Or the chairman of the Committee on Armed Services?

Mr. BYRD of West Virginia. Or the chairman of the Committee on Interior and Insular Affairs, or the chairman of the Committee on Commerce. Where do we stop?

We should leave it to the discretion of the President. Certainly when the President talks to Senators MANSFIELD and SCOTT and with the leaders of the House, he has talked with the congressional leaders. If the President wants to broaden this, and I think he would want to do that in many situations, he would do it.

When should he do it? We cannot say he should do it 1 week, 3 weeks, or 6 weeks before. When we say prior, he has to use his discretion and good judgment based upon the circumstances which confront him.

I hope that helps at least to explain my interpretation of the language.

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

Mr. BYRD of West Virginia. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I have listened with great interest to the discussion. I think it points up what many of us hope can be accomplished at this late

hour, and that is an accommodation between the sponsors of the Church-Cooper amendment and other Senators who would like to find some accommodation.

I have participated in much debate in the past 2 or 3 weeks and I recall that the basic question has been: What are the rights and powers of the President vis-a-vis the rights and powers of Congress? I think we have all determined that we can list all the rights and powers of the President. We had one recitation after another of the historical powers from the days of George Washington to the present time, and we had suggestions on what the rights and powers of any President might be and what the rights and powers of Congress might be, and the specific powers delineated in the Constitution.

It appears to me this discussion may lead us one step further to some accommodation. I mentioned earlier in colloquy with the distinguished Senator from Virginia (Mr. SPONG) that perhaps we could add a section referred to by the distinguished Senator from Idaho (Mr. CHURCH); perhaps we could modify the Byrd amendment by saying that "Nothing contained in this section shall be deemed or construed to impugn the President's powers as Commander in Chief."

Since we have been unable to delineate the powers of the Commander in Chief and since every Senator has stated the Commander in Chief has the right to protect American forces, it appears to me that is what the argument is all about. There has been recognition that he has that right and power, and it seems to me the Senator from West Virginia perhaps between now and tomorrow at 11 a.m. might work out some further modification of the Byrd amendment and have a recognition by Congress that we do nothing in the Church-Cooper amendment that impugns the President's constitutional power as Commander in Chief.

Everyone has indicated we seek to do nothing to impinge his constitutional power and with that accommodation I would feel the Church-Cooper amendment might be acceptable to many on both sides of the aisle. It does in effect what the Senator from West Virginia suggested. It does recognize, as we all recognize in any event, that we can do nothing to add or detract from the constitutional power of the Chief Executive to be Commander in Chief. So I would hope there is still a possibility of some accommodation.

It does appear to me that if we require the President to consult with congressional leaders, I recognize the President could and should probably do that, but there is nothing binding. In any event it really appears we are for the first time reaching some area of accommodation. I hope it can be accomplished between now and 1 o'clock tomorrow.

I commend the Senator from West Virginia for discussing the possibilities and his modification this evening.

Mr. BYRD of West Virginia. Mr. President, I appreciate the remarks by the able Senator from Kansas. I offered this amendment in good faith in an effort

to bridge some of the gap that seems to exist between some of us and not only in an effort to do that but also in an effort to satisfy my own conscience.

If objection is to be made we will just have to vote on the original modification. I can withdraw the unanimous consent request if anyone wishes to object. Then, of course, we can just have a vote up and down on amendment No. 667, star print.

In a few moments I would like to have the Chair again present my unanimous-consent request. At this time, I will proceed with the speech I have prepared for delivery on the floor this afternoon.

Mr. President, the able and distinguished senior Senator from Idaho (Mr. CHURCH) yesterday referred to my amendment as a "blank check" and said:

It could readily become a second Gulf of Tonkin Resolution, an open invitation to the President to do what he wills in Cambodia, without the further approval of the Congress—as long as he does it in the name of protecting our forces in Vietnam.

Mr. President, my position regarding any involvement of U.S. Armed Forces in Cambodia is a matter of record. I am opposed as much as is any other Senator to the sending of any Americans to fight additional land wars in Asia. Moreover, I want to see our American military forces withdrawn from Cambodia. I want them withdrawn from South Vietnam as soon as it is possible to do so in an orderly way which will not reward Communist aggression. Time and again, I have said that the Asians should carry the manpower burden of keeping Asia free.

In a Senate floor speech on April 4, I stated:

The United States should not become involved in the fighting in Cambodia. The new rulers of Cambodia have been hinting that they may seek American help in fighting the communists. For too long now, American troops and the American people have shouldered a heavy burden in fighting in Southeast Asia. To fight in Cambodia would only add to that burden.

Again, on June 3, when I submitted my perfecting amendment to the Cooper-Church amendment, I said:

The United States should not become involved in fighting in Cambodia for Cambodia, or in support of any Cambodian Government.

As I emphasized in my June 3 Senate floor speech, I have no objections to paragraphs 2, 3, and 4 in the Cooper-Church amendment, and if my amendment to paragraph 1 is adopted, I expect to vote for the Cooper-Church amendment as it would then be amended. Of course, paragraphs 2, 3, and 4 could undoubtedly be improved, but I do not personally intend to offer any amendment to change the verbiage therein.

My amendment, No. 667, star print, was introduced by me to make clear that the President's authority—in the fulfillment of his duty as Commander in Chief—to protect the lives of American troops stationed in South Vietnam, remains clear and uncompromised. My amendment reads as follows:

On page 5, line 7, before the semicolon insert a comma and the following: "except that the foregoing provisions of this clause

shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam."

Mr. President, I again want to state beyond reasonable doubt that the purpose of my amendment is to recognize the President's authority, power, and duty to take such action as may be necessary to protect the lives of U.S. forces in South Vietnam, and that it is definitely not to be misconstrued, misinterpreted or misunderstood to open any doors or loopholes for the use of American troops in Cambodia to support any Cambodian Government or to fight a war for Cambodia.

The Senator from Idaho erred in saying that the Byrd amendment is a "blank check." Is it a "blank check" to recognize the President's authority and duty, as Commander in Chief, under the Constitution, to take such action as may be necessary to protect the lives of U.S. forces in South Vietnam? Is it a "blank check" to recognize his authority and duty to take such action as may be necessary to facilitate the withdrawal of our forces from South Vietnam? I am not a military man, but I have always understood that the withdrawal of an army can constitute one of the most difficult of military maneuvers under certain conditions.

A careful reading of the plain language of my amendment, together with the statements that have been made in support of it, should convince anyone that the amendment is no "blank check" and that authorization is not being given for the use of American troops to prop up any Cambodian Government. The amendment does not give the President any power or authority that he does not already have under the Constitution and under the Gulf of Tonkin joint resolution which was enacted into law in 1964.

How, then, could the Byrd amendment be a "blank check" to the President? He sent American ground troops into Cambodia on April 30. My amendment was nonexistent then. Yet, most Senators do not question the President's constitutional authority in taking the action which he took.

Congress can pass no law diminishing the constitutional authority of the President. Why, then, does he need my amendment as a "blank check" if, in the future, he should deem it necessary to again attack sanctuaries in Cambodia in order to protect our military forces in Vietnam? My amendment would not give him any additional power or authority over what he already has. What he did on April 30 without my amendment he could do in the future without my amendment. I would not accuse my friend, the able senior Senator from Idaho of resorting to the use of a scare word, but he has referred to my amendment as a "blank check." I would no more consider giving the President a "blank check" than would the Senator. I want, as much as does the Senator from Idaho, to get out of Cambodia and to stay out of Cambodia. I, too, want to get out of South Vietnam, as I have said repeatedly, but I do not think that this is

something that can be done overnight. Our men are in South Vietnam.

They were sent there by our Government—most of them through no choice of their own—and our Government has a duty to do whatever it can to protect their lives while they are there. That is what my amendment is all about.

The question of the constitutional allocation of powers between the executive and legislative branches, certainly, may be an issue of such great dimensions as to justify debate completely independent from the wisdom or the unwisdom of Vietnam. I say, however, with all the earnestness at my command that the President's actions in moving into Cambodia did not, in fact, usurp the constitutional powers of Congress. I do, however, question the constitutional validity of congressional action which, in effect, would seek to limit the President's constitutional authority to take actions necessary to protect the lives of our fighting men in South Vietnam.

If, as seems clearly beyond doubt, Cambodia has been used as a sanctuary from which military operations against U.S. forces have been undertaken, surely the President's order to clean out those sanctuaries was a tactical decision and within his exclusive power and authority as Commander in Chief. If it were necessary to repeat the same action 6 months from now, in the interest of protecting our forces in South Vietnam, it would again be a tactical decision and within the President's powers and authority to implement as Commander in Chief. What justification is there for congressional action now to cut off funds from U.S. Armed Forces which may have to be utilized in Cambodia 6 months from now in carrying out the same kind of tactical action as was begun on April 30 by the Commander in Chief for the purpose of protecting American lives in South Vietnam?

I question any congressional action which serves to restrict the constitutional authority of any President to protect American troops by cutting off funds. The able Senator from Idaho said yesterday that the Cooper-Church amendment "does not deny the President's constitutional power as Commander in Chief to protect the safety of American forces," and that "the President has a responsibility to protect U.S. forces in Vietnam." The Senator went on to say that the President "does not need a mandate from the Congress for this purpose."

Mr. President, the President, indeed, does not need a "mandate" from the Congress to protect U.S. troops in Vietnam, but he does need money to do so. Tactical maneuvers—even for the protection of American servicemen—cannot be executed without funds. Over and over we have heard that the Cooper-Church amendment does not prohibit the use of U.S. Armed Forces in Cambodia in the future to protect American lives in South Vietnam. In so many words, perhaps it does not. But it does say that, except by law hereafter enacted, no funds shall be authorized or appropriated for the retention of U.S. forces in Cambodia after June 30. What could be plainer than that?

No, the President does not need a mandate. He needs funds, and here is where the Cooper-Church amendment would do by indirection that which it cannot do by direction—namely, to restrict or negative the President's power to fulfill his duty, as Commander in Chief, to act for the protection of our forces in South Vietnam.

Congress undoubtedly has the power and the authority to cut off funds for military operations of any kind—there is no question about this. But in so doing, it can negate the constitutional power of the President as Commander in Chief to implement certain necessary tactical decisions which are within the universe of his authority rather than within the ambit of legislative authority. Why would Congress do this?

We are not faced with a situation in which the President wishes to pursue a war indefinitely and Congress wishes to terminate it. Rather, we are faced with a situation in which both the President and the Congress have expressed a policy determination to end American manpower involvement in Southeast Asian conflict as rapidly as competing considerations will allow. Ergo, the question before us is not one of reversing Presidential policy but rather that of drastically limiting the President's discretion and flexibility in carrying out a policy, in which we of the Congress agree.

It is really a question of delineating or at least recognizing the fine line of separation between Presidential and congressional powers under the Constitution. As a matter of fact, it deals with such a twilight zone of competing powers so delicately balanced that they appear at times, and in some situations, to overlap.

It is said by the worthy opponents of my amendment that, if future emergencies should require a reintroduction of ground forces into Cambodia for the protection of American troops in South Vietnam, the President need only come up to the Congress and request the funds and Congress will appropriate the moneys.

We all know, however, that the enactment of a law appropriating funds takes time. There first must be a budget estimate prepared. Congressional hearings are then required. Committee discussions are time consuming at the subsequent markup session. Any appropriation bill reported to the Senate must then run the gauntlet of the 3-day rule. Debate can go on ad infinitum. By this time, the enemy can have folded its tents and quietly moved away, taking its ammunition, its weapons, its military materiel and men, and the enemy will have been spared simply through the fortuitous process of congressional delay. Or, the enemy could, under the protecting cover of congressional indecision and delay, proceed to launch an attack upon our forces in South Vietnam.

In other words, if the President should be given intelligence reports which indicated that the enemy was heavily massing for an attack from Cambodian sanctuaries 6 months from today—at a time when our forces in South Vietnam will have been reduced from 30,000 to 380,000 men—the President would be

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unable to attack the enemy with American ground forces until such time as he could go before Congress and get a bill passed providing funds for the implementation of such protective action. By the time the money was appropriated, it could be too late. What Senator would want to take a chance on imperiling the lives of American servicemen in South Vietnam by fettering the President's hands where such a tactical operation might be clearly justified and required and where time and speed may be of the essence?

When the enemy masses in such Cambodian sanctuaries, those sanctuaries are not "neutral" territory, but, in reality, they are part of the war zone, and no attack upon them in any sense can be construed as a "new war." It is the same war and the same enemy. The Cooper-Church amendment would, in effect, however make the Cambodian-South Vietnamese border a more formidable Maginot line than was ever embraced in the concrete fortifications outflanked by the Germans 30 years ago. The enemy would be free to attack at will from the Cambodian side and would be immune from ground attack by American ground forces who would be allowed to pursue only to the border where they would have to stop.

No, the President does not need a "mandate" from Congress to protect the lives of American troops in South Vietnam against privileged enemy sanctuaries in Cambodia. The Constitution gives him this mandate, and the Gulf of Tonkin resolution expressed prior congressional approval of such a mandate. But he does have to have funds to carry out this constitutional mandate, and the first paragraph of the Cooper-Church amendment, as it is now written, would, if it were ever enacted into law, accomplish indirectly what the Congress—as I have said—cannot do directly, namely, infringe upon the constitutional powers of the Commander in Chief. The cutting off of funds by Congress is just as effective as would be the cutting off of Presidential powers by constitutional amendment—which is beyond the purview of Congress in the final analysis. Both end in the same result.

I again refer to the able Senator from Idaho, not through disrespect or with any ill feeling—I respect, admire, and love him as a friend—but I again refer to him only because he stated that—

The Byrd proposal could readily become a second Gulf of Tonkin resolution, an open invitation to the President to do what he wills in Cambodia without the further approval of Congress—as long as he does it in the name of protecting our forces in Vietnam.

Mr. President, I did not offer my amendment as an open invitation to President Nixon or to any other President "to do what he wills in Cambodia." I do not believe that the President desires to involve—deviously, covertly or overtly—American ground troops in the support of the Cambodian Government. The President has stated time and time again that he intends to bring our men out of Cambodia, and he is doing this. He has already reduced

our forces in South Vietnam by 115,000 men, and he has promised to bring 50,000 more men home by October and an additional 100,000 by next spring. Surely the Senator from Idaho—and I do not intend to put words in his mouth, and he would not let me if I tried to do so—does not imply that the President is attempting intentionally to delude the American people. Surely the Senator from Idaho does not mean to imply that the President wants really to involve America in a war in Cambodia for Cambodia, a war which would require sending more men to Southeast Asia rather than returning more American servicemen home from Southeast Asia.

Surely the Senator from Idaho does not mean to imply by the words, "an open invitation to the President to do his will in Cambodia," that the President wants to prolong the bloodshed or that the President nurses some secret and evil scheme to enlarge American manpower involvement in Cambodia—a scheme which he would not dare reveal to the American people. Do we not trust the President? Is this what the Senator from Idaho is saying? Will not the American people hold the President responsible if he does not fulfill his promises to bring Americans home from Southeast Asia? The President surely knows this, and I am confident that his is a burden which none of us bears.

The truth of the matter is, Mr. President, that my amendment limits the President's use of any American troops in Cambodia to a very well defined and clearly stated purpose, namely, the protection of American troops in South Vietnam. In doing this, my amendment gives the President no new authority. He already has this authority. My amendment simply makes clear that the Cooper-Church amendment, as now written, would not interfere with his clear duty and authority to act to protect our men in South Vietnam.

The able Senator from Idaho says that the Byrd amendment "could readily become a second Gulf of Tonkin resolution." Mr. President, let none of us labor under any illusions as to what we are doing here. The Cooper-Church amendment, as now written, will not likely become law; although I believe that if my amendment were to be adopted, the chances of acceptance by the other body would be enhanced. I feel that the chances of getting the approval of the President's signature to the Cooper-Church amendment would be enhanced. But, if the Cooper-Church amendment is not perfected by my language—or by somebody's language—I feel that passage of the amendment by the Senate would mean no more than a closely divided expression of Senate sentiment.

I do not think that such would represent the sentiment of the majority of Americans. But I do believe that Senate acceptance of the Cooper-Church amendment would be misconstrued by the enemy, and I feel that it would encourage the enemy to believe that henceforth it could operate just across the Cambodian border from Vietnam with immunity.

I am constrained to take issue with the

Senator's statement that my amendment "could readily become a second Gulf of Tonkin resolution." There is no need for a second Gulf of Tonkin resolution even if any of us wanted such. The Gulf of Tonkin joint resolution was enacted into law in 1964, and that law has never been amended, repealed or ruled unconstitutional. It is on the books today and has been for 6 years. It clearly states congressional approval and support of "the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression." To what enemy does the Gulf of Tonkin resolution refer when it alludes to "armed attack against the forces of the United States"? It refers to "the Communist regime in North Vietnam," as set forth in the preamble of the joint resolution, which was enacted into Public Law 88-408.

PRIVACY IS A FUNDAMENTAL
AMERICAN RIGHT

HON. JOHN WOLD

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1970

Mr. WOLD. Mr. Speaker, increasingly, the Members of this body are expressing their concern of the many insidious ways in which the privacy of Americans is threatened. The concern is especially justified because of the changes in our society. The operation of Government and of business is said to require ever increasing amounts of information about the individual citizen.

Unfortunately, this information is not always kept privileged.

I am delighted that the Casper Star-Tribune, my hometown paper with the broadest circulation of any daily in Wyoming, has joined my deep concern over this issue. I ask that an editorial in the June 10, 1970, issue of the paper, be published in the RECORD as an indication of the growing awareness throughout the Nation of the Government to intrude into areas it ought not to.

Such editorials contribute to the growing public awareness which is so necessary for the protection and preservation of our rights:

[From the Casper Star-Tribune, June 10, 1970]

NAMES FOR SALE: WHAT PRIVACY?

Congressman John Wold is so specifically right in his opposition to the (former) practice of the Internal Revenue Service in selling lists of names that we cannot see how anyone could reasonably disagree with his position.

Selling names and addresses for advertising and other uses is a common practice which helps a few to the annoyance of many. It is a practice which should be outlawed. While we tolerate it, we regard it as an invasion of privacy. Those individuals and institutions which provide such listings cannot be regarded as much less than scavengers at a cent or five cents a name. A customer or prospective customer writes to a company regarding an item, and it is only a short time hence, that he receives "pitches" from other

companies which may meet some area of his interest.

When the Internal Revenue Service makes use of privileged information, available to it under compulsion of law, the hackles of every citizen should rise. After Mr. Wold asked the IRS to stop selling rolls of mailing labels containing names and addresses of some 140,000 licensed gun dealers and collectors for about a cent a name, the IRS said it had done so, but contended it could sell the lists under the Freedom of Information Act.

The IRS viewpoint has been described as a gross distortion of the act, and we are inclined to agree. In an area where there is reason to believe that private enterprise is open to suspicion, the U.S. Government should be *simon pure*?

Congressman Wold has raised the question of whether the rights of individuals have been violated. He also noted that indiscriminate circulation of such lists as those of gun dealers and collectors could provide targets for access of weapons.

There is continuing concern—as there should be—that personal information provided to governmental agencies will be misused. If there is any one thing that has made this country great, it is the philosophy that it is a nation of individuals and that they are not merely units of an overriding state.

If we are willing to go that way—toward Communism—we can do it by gradual processors which hardly will be noticed. The erosion of individual freedom is almost unperceived, and bureaucracy becomes such a behemoth that even the President and his twisting the arms of republican form of government.

John Wold has pinpointed this question to the field of guns—and he was right in doing that. But it is a much larger issue dealing with the American citizen, the law-abiding person, the non-criminal, who has some privilege of privacy which should be respected by private enterprise and by his government.

THE COMPUTER AGE IS DAWNING ON CAPITOL HILL

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES
Thursday, June 11, 1970

Mr. METCALF. Mr. President, in 1965 and 1966, I was a member of the Joint Committee on the Organization of the Congress jointly chaired by former Senator A. S. Mike Monroney and Representative RAY J. MADDEN.

Our deliberations led to the Legislative Reorganization Act, approved by the Senate in 1967.

During the course of several weeks of hearings we learned again that knowledge is power—that enacting legislation requires an understanding of the alternatives. That understanding would be aided immeasurably by the use of computers, upon which business and executive departments are relying increasingly to their advantage.

Mr. President, computers would better equip us to make the decisions we must make. They would give this Nation's lawmakers the capability we must have to meet representatives of the executive branch and the business community on equal terms.

That the computer age is dawning on

Capitol Hill is the subject of an article in the May 28, 1970, issue of the National Journal, published by the Center for Political Research. The article discusses provisions of the Legislative Reorganization Act which has been ordered reported by the House Rules Committee. Title IV would create a Joint Committee on Data Processing charged with the responsibility for establishing a system of automatic data processing and information storage and retrieval to meet the "urgent, critical, and continuing need" of the Congress.

The author is Mr. Andrew J. Glass, formerly of the New York Herald-Tribune and now the Journal's congressional staff correspondent. I ask unanimous consent that this report be printed in the RECORD.

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

CPR REPORT/CONGRESS MOVES INTO COMPUTER AGE BUT DIVIDES ON CONTROL OF NEW SYSTEMS

(By Andrew J. Glass)

The computer age is dawning on Capitol Hill.

Despite this awakening, there is resistance within the legislative branch against creating a unified computer system. Sparring has arisen between the House and Senate and within each body over who will control the computers, although no one is opposing their introduction.

Behind these disputes lies the knowledge that information is power: Any group that designs and runs a computer system in Congress also has the potential to shape the legislative process.

Enacting legislation often reflects an understanding of the alternatives. With access to computer tools, individual lawmakers would become less dependent on committees and better equipped to take the initiative.

Redressing the balance: Computers, which thrive on the kind of recurring data Congress deals in, may provide the lawmakers with a new capability to challenge policymakers in the executive branch.

Among those pressing for action it is widely felt that "third-generation" analytic computers could be an effective tool in restoring to Congress powers yielded nearly 50 years ago with the passage of the Budget and Accounting Act of 1921 (PL 67-13).

Until then, it was Congress and not the executive branch that annually prepared the federal budget draft.

Without the detailed information generated by the budgetary cycle, Congress lacks a key framework for decision-making.

A 1969 House Government Operations Committee report states that "the time is already here when the Bureau of the Budget could not prepare the budget without the use of a computer."

There are 4,666 computers in the federal government, 62.1 per cent of them in the Defense Department. This does not count computers tied into specific weapons systems.

Bridging the gap: Four years ago, the sole computer facility on Capitol Hill was a small unit used to calculate the Library of Congress payroll. Even today, in making fresh strides to bridge the information gap with the executive branch, Congress finds itself behind nearly two dozen state legislatures which have computerized their data.

In 1965, Congress directed the National Bureau of Standards to offer all-out technical support to federal agencies in the computer sciences (PL 89-306).

Yet a good deal of this new data is not

being used by Congress, which currently lacks the means to absorb it. For example:

Walter W. Hassie, director of management information systems for the Budget Bureau, has privately offered on Capitol Hill to make available the data used to compile 200-odd special analyses which, in turn, govern key budget-making decisions. Hassie is also moving toward a year-round "rolling budget" system. At present, Congress lacks the manpower and tools to use this data—to evaluate it independently or to maintain its own "rolling budget," which requires computers continuously to monitor all changes in spending levels.

In Denver, the Air Force runs its computerized Project LITE (Legal Information Through Electronics). LITE has such data as the entire text of the U.S. Code; all published decisions of the U.S. Comptroller General and all unpublished decisions since 1955, and all international law agreements. Congress has no way of tapping into LITE.

This year, the Bureau of the Census is developing comprehensive magnetic tape files on U.S. population trends, including key statistics on race, education, income and housing. Congress lacks independent means to study this data.

Too much, too soon: Another major problem facing Congress is, in the words of the systems analysts, "information overload." As a recent Library of Congress report puts it: "The problem usually is not too little information, but too much."

HOUSE

Having successfully resisted for four years, House Democratic leaders determined in 1969 that pressure had mounted to the point where they should produce a congressional reorganization bill.

The result of these efforts is more modest in scope than scores of previous efforts that have failed in the House. Known as the Legislative Reorganization Act of 1970 (HR 17654), the bill is scheduled to be taken up on the House floor during the week of June 22.

Computer provisions: Title IV of the bill provides for the creation of a Joint Committee on Data Processing. This concept faces strong opposition.

Joint approach—The proposed panel would be composed of six Senators and six Representatives, divided evenly between Democrats and Republicans. The group would have wide powers to set computer policies for Congress.

Specifically, the joint committee would be charged with implementing the bill's finding that "... there is an urgent, critical and continuing need on the part of the Congress and the legislative branch generally for a modern, effective and coordinated automatic data processing and information storage and retrieval system."

The joint committee approach had been advocated (as HR 7012) by Rep. William S. Moorhead, D-Pa., who says that "Capitol Hill computer systems must be compatible—they must be able to 'talk to one another.'"

Record salary—Under the plan, the joint committee would hire a director of data processing and pay him \$40,000 a year. This would be the highest-paid staff position on Capitol Hill.

It would be some \$2,000 higher than the salaries paid to the Architect of the Capitol, the Clerk of the House and the Secretary of the Senate. And it would be only \$2,500 below the political ceiling imposed by the Members' own salary level. (A deputy director would earn \$36,000 a year.)

Gordon E. Nelson, who recently resigned as administrative assistant to Rep. B. F. Sisk, D-Calif., a principal author of the reorganization measure, said the high salary levels reflect the difficulty of luring away the best people and keeping them. "The data processing community," he added, "has a notorious reputation for pirating people."

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Perhaps most ominous of all, Mr. Nixon's action has prompted an unusual show of Russian-Chinese co-operation; Russia has proposed to China a joint Indochina policy to press for American withdrawal from Southeast Asia.

So it is conceivable the Cambodian thrust poses the risk of far deeper entanglement than Mr. Nixon envisioned. That is why so many Senators want to make prompt withdrawal from Cambodia as certain as possible, and why they want to make sure money will not automatically be available for a re-entry if some new crisis arises.

The Senate's duty is clear. In the interest of withdrawal and peace in Indochina it should cut off funds for Cambodia.

THE POWERS OF THE PRESIDENT

Mr. DOLE, Mr. President, as we continue to debate the President's power to exercise his constitutional duty as Commander in Chief, it is important that we consider the feelings of our fighting men in Southeast Asia. Often, the President's critics forget what the men who are doing the fighting think about the conduct of the war.

If we examine the broad cross-section of America, at home and in the combat zone, we discover strong and solid majority support for the President's conduct of Southeast Asia operations. There is little doubt, in fact, that the vast majority of the soldiers in the war zone support the President's decision to protect their lives by sending American forces into Cambodia. It is vital that none of us forget that these Americans in Southeast Asia do have faith in their Commander in Chief.

While some editors and others sit in the safety of their homes in America and condemn the President, I would remind my colleagues again that it is President Nixon who deescalated the war in Southeast Asia, that it is President Nixon who reduced our troop level by 115,500 men.

If we read the newspapers and listen to the commentators, they refer to certain Members of this body as "antiwar Senators." I assume that must mean those who support the President are "prowar Senators."

Of course, nothing could be further from the truth.

I know of no Member of this body who is not an antiwar Senator.

I know of no Member of this body who wants war as opposed to peace.

In fact, I know of no Member of this body who does not want peace at the earliest possible time in Southeast Asia, in the Middle East, and in every other trouble spot in the world.

Accordingly, I would say to those who coin the phrases, that the facts do not support their conclusions.

Mr. President, recently I noted a letter published in the Ashland, Kans., newspaper, the Clark County Clipper, written by Lt. Col. Roy Dickey, who is in the Air Force.

Let me read that part of his letter that deals with Cambodia. He is not writing from the safety of an office. He is not an editor, he is not a commentator, he is not a Member of this body, he is not a student, but, he is concerned about America.

This is what he writes:

You commented on the President's decision to launch the recent Cambodian operation. I would also like to make a few comments and say that I admire the President for having the personal and political courage to make such a move. The action was long overdue. Our news media, protestors, and indignant dissenters seem to purposely ignore that the North Vietnamese are trying to impose their will by force on the South Vietnamese. Trying to, they have for years! They have forgotten that Laos belongs to the Laotians and not to North Vietnam. They have forgotten that Cambodia, too, is an independent country with the right to conduct its own internal affairs and to be free from interference and occupation by a vicious foreign power. The North Vietnamese are not Cambodians. Why should they be permitted to use Laos and Cambodia as they see fit? This has in the past been called aggression and was not condoned by world powers, such as the invasion of Poland in WW II. Do we now condone this kind of thing by the North Vietnamese because Cambodia, Laos and South Vietnam are at various degrees of helplessness? Some say the government of South Vietnam is corrupt and does not have the support of its own people. Should we then turn the country over to the Communists who methodically killed and terrorized South Vietnam into virtual anarchy and forced us to start the large military buildup in 1965? Look how long it took the South to recover after the Civil War. They were in much better shape after the Civil War than the South Vietnamese were in 1965, but less than five years later it appears that South Vietnam is rapidly getting on its feet.

Don't we as Americans have a national conscience? Don't we have enough smarts to realize that the world communist structure is solidly behind North Vietnam and absolutely delighted to see Americans do it to themselves?

We have every moral right the moral responsibility to protect our soldiers in South Vietnam. I feel that we have the very definite moral responsibility to protect innocent people in nations less fortunate than us, particularly when these countries are so openly attacked or occupied as Cambodia, Laos, and South Vietnam have been. I could go on and on and discuss the absolute idiocy of permitting the enemy, encouraging the enemy, to have flourishing sanctuaries; but I won't bore you. Yes, President Nixon did the right thing; and I think you should write him, your Congressman, and Senators to let them know that sensible Americans are behind him.

Mr. President, yesterday, I also received a letter from a young lieutenant in California, who raises, a pertinent question. I shall not mention his name in the Record because I do not have his consent to do so, but let me read his letter:

JUNE 4, 1970.

DEAR SENATOR: I am departing shortly for my fifth tour of duty in Southeast Asia. I did not volunteer for any of these assignments, but I have not tried to snivel out or shirk my responsibilities to my country either, because I am certain that the President's policies on Southeast Asia are correct.

Casualties have always been higher than they should have been since the enemy has enjoyed privileged sanctuaries. The enemy was careful not to make his sanctuaries too attractive as he was not sure we would not destroy them, therefore we had something of a psychological advantage. The Cooper-Church amendment would guarantee the enemy safe sanctuaries from which to stage troops and supplies.

The Cooper-Church amendment would guarantee protection for the enemy. What guarantees are being provided for U.S. troops?

I need to know since I have a wife and two daughters who want to know. Don't tell me withdrawal because we need protection to avoid being killed while withdrawing.

Very respectfully,

Mr. President, let me say again that perhaps, from time to time, we lose sight of the men who are doing the fighting in Southeast Asia, of the American men in uniform who are asked to take the risks, and in some cases, to make the supreme sacrifice.

But more important, let me underscore again to those who so freely criticize the present President, that this is not President Nixon's war. The war was well on its way by January 20, 1969, when he assumed the high office of the Presidency.

Let me underscore that he has not escalated the war since that time. He has not sent more troops. He has withdrawn 115,500 men. He has not increased the bombing. He has reduced the casualties. There has been a reduction in casualties. The President has announced that another 50,000 men will be withdrawn by October 15 of this year and that by next spring, next May 1, an additional 100,000 men—which will mean, if I computed the total correctly, about 80 percent of all our combat troops in South Vietnam—will have been withdrawn because of the Vietnamization program.

Thus, I say, Mr. President, as we consider all the facts in the final hours before voting on the Byrd amendment, we should keep in mind this letter from the young lieutenant and the one from Lieutenant Colonel Dickey. They are on the firing line. They are not residing in a place of safety and criticizing the President or finding fault with his policies.

I do not know the politics of these two men and am not concerned about that. They are concerned about their safety, and the safety of their fellow men in Southeast Asia.

I happen to believe, as indicated yesterday, that we strengthen the Cooper-Church amendment by adoption of the Byrd amendment.

It would serve notice that we have a shared responsibility. I would hope that, when the vote comes tomorrow, the Senate in its wisdom will adopt the Byrd amendment by a wide margin.

Now, Mr. President, I wish to take a brief moment to welcome back those Senators, Governors, and Members of the House who have taken time to go to Southeast Asia, South Vietnam, and Cambodia, to find out for themselves just what is happening. Particularly I refer to the Members of this body, the distinguished Senator from Texas (Mr. Tower), the distinguished Senator from California (Mr. MURPHY), and two intrepid Democrats, the distinguished Senator from New Hampshire (Mr. McINTYRE), and the distinguished Senator from Nevada (Mr. CANNON)—who is a man familiar with those who are willing to take a gamble.

There were others from the House and from the executive branch, such as Bryce Harlow and the President's director of communications, Mr. Herbert Klein.

There were 13 gentlemen who had the courage, the interest, and the opportunity to take the long arduous flight to

South Vietnam, and to risk the possibility of death or capture, to see firsthand the result of the President's successful gamble in Cambodia.

Mr. President, I do not speak lightly when I talk of risking death or capture. When you are fighting guerrilla warfare; when there are no front lines, when the enemy has the capability of firing rockets and mortars into our bases at any time he is willing to risk his own life, then no American is completely safe.

I am certain, however, that the gentlemen who participated in this inspection trip found life much safer than it was before May 1. You cannot kill 9,000 of the enemy, you cannot capture 11 million rounds of small arms ammunition and 15,000 weapons; you cannot destroy his bases and his caches and disrupt his supply lines without making life a little safer for those on our side.

Mr. President, I recognize there are some divergent views on the value of this inspection trip, but one learns more in the field than by reading the newspapers, or by listening to commentators, or by listening to debate in this Chamber.

Mr. President, it is easy to criticize from a place of safety. But it is a little more difficult to take a look first hand. One can learn more in the field than by reading the papers or by listening to the debate that goes on in this safest of all sanctuaries—the Senate Chamber.

So, regardless of their individual views upon their return, whatever they may be, I commend my colleagues in the Senate who have taken the time to determine firsthand whether the Cambodian incursion was successful, to determine whether the pacification program in South Vietnam is successful, to determine whether the Vietnamization program is successful.

I would guess there are divergent views and that some may reach different conclusions. But whatever conclusion they reach, we owe them a debt of gratitude for their willingness and their courage to take this trip and to report to us.

LABOR LEADERS SUPPORT THE AMENDMENT TO
END THE WAR

Mr. CRANSTON. Mr. President, yesterday a group of labor leaders representing unions with a total membership of 3.5 million in the United States met in Washington with the Senator from South Dakota (Mr. MCGOVERN), the Senator from Oregon (Mr. HATFIELD), and me, to discuss the efforts in Congress to find a way to end our participation in the war in Southeast Asia. Following that gathering, an announcement was made of the formation of a National Labor Committee To End the War.

I ask unanimous consent to have printed in the RECORD at this point the statement accompanying that announcement, which covers the position of these leaders of labor regarding the war in Southeast Asia generally, regarding the amendment to end the war, and regarding the Cooper-Church amendment.

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

STATEMENT BY THOMAS E. BOYLE

(NOTE.—Mr. Boyle is president of the International Chemical Workers Union and temporary chairman of the National Labor Committee to End the War.)

Eleven top officers and leaders of A.F.L.—C.I.O., A.L.A., and independent unions, with a total membership of 3½ million, met in Washington Tuesday (June 9) to plan labor activities in support of the Amendment to End the War.

We requested a meeting with the five original sponsors of the Amendment, and Senators Cranston, McGovern and Hatfield joined us during our deliberations, along with a representative of Senator Hughes. The group formed an *ad hoc* national labor committee to end the war and scheduled a second session on June 17, when a permanent committee and the names of the participating union leaders will be announced.

We want to demonstrate to the American people and to our government that millions of patriotic American workers want the War brought to an early end according to the rules of the Constitution. Those of us who join in supporting the Amendment declare that no group of workers in any one city can or should speak for the entire American labor movement.

Many of our members are veterans. We share the pride of all Americans in our flag. We shall carry and show it to demonstrate that pride.

We love our country. We feel that it has assumed an unnecessary burden by becoming shackled by the War. Inflation has been one of the results of that War. Our workers pay the price of inflation every day and our members who are on pension suffer. Unemployment, resulting from inflation, threatens the entire labor movement. Only by ending the War can inflation be ended.

Therefore we support the Amendment to End the War. In addition, we support a sound program of economic conversion designed to provide jobs as our economy shifts from war to peace. We also support the Church-Cooper Amendment and oppose any modification of it.

The PRESIDING OFFICER (Mr. TALMADGE). What is the pleasure of the Senate?

The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I have no prepared remarks. However, I do want to make a few comments on this matter.

I would like to say that the Senator from Kansas has been very assiduous and faithful in his duty as a Member of this body, and in his participation in this debate. I have enjoyed listening to him and I have paid attention to the issues that he has raised.

I agree with his statement that President Nixon has reversed the policy of the preceding administrations. The President has said that he seeks to secure an end to the war in Vietnam either by negotiation or by the policy of Vietnamization, I support that purpose.

The Secretary of State has said on numerous occasions that the President's policy is irreversible. I believe that it is irreversible unless by some chance, or because of unforeseen events, our country may be led into a widening of the war.

This is the real issue and that is the reason we are advocating the adoption of the amendment offered on behalf of the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MANSFIELD), the Senator from Vermont (Mr. AIKEN), and myself.

I would agree also that the men who fight in Vietnam deserve the support of the Congress and of the people. Some of those who fight are regulars. Many of them are volunteers, and many have

been drafted. They have obeyed the orders of their Government.

I believe that nearly every Senator has served in the military service and has served in wartime. I suppose that none of us looked forward with the greatest pleasure at the prospect of entering the military service in wartime. Nevertheless, we did so. We went. And that is true of those who have gone to Vietnam. They have not burned their draft cards. They have not evaded the draft. They have gone to Vietnam and they serve.

Many of these men—and I know it is true of a number from my State—have volunteered for a second tour of duty in Vietnam.

Our amendment will not in any way compromise the safety of these men, who serve in Cambodia, in Vietnam, and any place in Southeast Asia. Our view is that it will offer them the opportunity of a larger safety through the confinement of the war to Vietnam, and hope for an earlier end of the war.

The issue before the Senate is really not a difficult one to understand, although it has been misinterpreted.

Cambodia was invaded by the North Vietnamese and the Vietcong. Laos was invaded. South Vietnam was invaded.

I agree with the Senator from Kansas that many seem to forget that it was the North Vietnamese and the Vietcong who invaded these countries. The United States is not the aggressor. In Vietnam, whether or not it has been declared by the Congress or recognized by a resolution to be a state of war, it has been declared that our course is withdrawal from the war.

The United States owes no obligation to Cambodia. It owes no obligation by treaty. It owes no obligation because of any resolution of the Congress to authorize the use of our forces in Cambodia for Cambodia.

And I certainly assume that there is no executive agreement which would promise the use of our forces in Cambodia.

We have come to a point where our forces are engaged in Cambodia. The President has said that they will be withdrawn by June 30. I believe that statement to be correct. Our amendment, if it is agreed to, would then become effective. It would regulate the activities of our Armed Forces in Vietnam after that date, in the sense that I shall define.

We have no obligation to Cambodia.

The amendment provides that from July 1, we shall not become engaged in a war for Cambodia or in a war in Cambodia, without the consent of Congress.

I believe our amendment has sound constitutional authority.

It has been argued that the constitutional authority of the President to protect our forces would override the constitutional authority of the Congress to provide that we shall not become engaged in a war without the authority of Congress.

There is an area in which it is difficult to delineate the line between the powers of the President and the Congress. But there is a line.

I have read the debate of the Founding Fathers and recent briefs prepared upon the authority and war powers of

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the Commander in Chief, including his authority to protect the troops from the beginning, and most of the authorities spoke of the President's authority as one to repel sudden attack and to defend the troops against attack.

Gradually throughout the years, Presidents have extended this power beyond that concept. Throughout the years Presidents have sent troops into other countries to protect American lives and American property. But as the writers have said, the fact that such action has been taken beyond its proper scope does not make such action of continuing propriety either by law or by the Constitution. By legislative enactment, Congress can assert its authority.

I have read the questions asked yesterday by the distinguished Senator from Virginia (Mr. Spang), who is present on the floor, regarding the constitutional power of the President.

It has been interpreted as the power to repel sudden attack. I believe it would include the authority of "hot pursuit." If an emergency should arise near or upon the border between Cambodia and South Vietnam which should cause the President, as Commander in Chief, to think it necessary to take limited action to protect troops, I would agree that he could and should protect our men.

Our amendment provides in subsection 4, in effect, that the Air Force of the United States can be used to interdict the enemy and supplies from North Vietnam, or South Vietnam, or Cambodia, attempting to attack our forces in South Vietnam. Similarly, artillery and rockets could be used to protect our men and destroy sanctuaries.

Commonsense and judgment determine those situations where the Commander in Chief is using his authority to protect his men. Commonsense and judgment also lead us, I think, to believe if that authority is used beyond the necessity for the immediate protection of the Armed Forces, to engage our forces in situations in support of Cambodia, or for the retention of our forces in Cambodia on a more or less permanent basis I believe commonsense between Congress and the Executive, and agreement between them, would indicate that the Executive had moved beyond the concept of protection of the troops, and has entered the military-political field which is within the authority of the President and also of Congress.

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

Mr. COOPER. I shall yield in just a moment.

What we are really saying—and I think it should be simply stated—is that we are not condemning the action in Cambodia. We say nothing about it in the amendment. People have different judgments about it. It created uncertainty in this country but in a military way it has been helpful.

We are not attempting to encroach upon the President's constitutional powers.

The amendment intends that, if it should become necessary to protect Cambodia or become permanently involved in

Cambodia as a part of the war in Vietnam, you are entering a field in which Congress has a right to enter into that judgment.

Mr. President, I yield to the Senator from Virginia.

Mr. SPONG. Earlier the Senator from Kentucky made reference to the questions I propounded yesterday to the Senator from West Virginia (Mr. Byrd), the sponsor of the pending amendment.

Mr. COOPER. The Senator is correct.

Mr. SPONG. I wonder if the Senator from Kentucky would comment on these questions in addition to what he has already said with regard to his understanding of the independent powers already possessed by the President as Commander in Chief. The questions appear on pages 8687-88 of the RECORD of yesterday, June 9, 1970.

Would the Senator care to comment or give an opinion as to the independent powers presently held by the President as Commander in Chief with regard to the situations outlined in the questions?

Mr. COOPER. I will start with the question the Senator asked first.

Mr. SPONG. Yes.

Mr. COOPER. Without trying to define an area in terms of 2 or 3 miles, I would say the President has that authority.

Second, concerning his question "To destroy enemy supplies, staging areas, headquarters, and so forth, in a relatively narrow zone along the Cambodian-South Vietnamese border," "approximately 20 miles in width," I have already pointed out under subsection 4 of our amendment, the Air Force of the United States could attack such areas and artillery could be used and rockets could be used. As to the question whether there is continuing authority to enter Cambodia in a zone 20 miles in width, I would say our amendment does not recognize such authority. That is my judgment. But if an emergency situation should arise where our troops were in danger, I think the President, in his good judgment, would have the power to defend our troops against attack.

I cannot set out a line in terms of miles. I am trying to base the authority on steps against a sudden attack, repelling sudden attack, or in case of an emergency, such action as is necessary to protect the troops. I am trying to distinguish between such direct authority and the authority the Byrd-Griffin amendment would give to take any action that may be determined it is unlimited.

(At this point the Acting President pro tempore assumed the chair.)

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

Mr. COOPER. I yield to the Senator from Idaho, who is cosponsor of the amendment.

Mr. CHURCH. Mr. President, I wish to add an afterthought along the lines of the Senator's comment.

The key word in the Cooper-Church amendment is "retaining." Subsection 1 of the amendment prohibits the retention of American forces in Cambodia after June 30. I agree with the Senator from Kentucky that our amendment is

intended to prohibit a permanent or quasi-permanent occupation of a buffer zone within Cambodia for an extended period of time.

However, if it were to happen that the enemy suddenly utilized a staging area, and there was a concentration of enemy troops and equipment obviously intended to be used against South Vietnam beyond the border, we would agree that the President, as Commander in Chief, has the constitutional authority to order his field officers to strike at and destroy such a base to protect American troops in South Vietnam. This would, however, be in the nature of a sudden strike and withdrawal operation.

I further agree with the Senator from Kentucky when he says that the adoption of the Byrd amendment would open up an exception so large that it honestly renders the Cooper-Church amendment meaningless.

The President could invoke the justification of acting for the purpose of defending American troops to cover almost any future operation that he himself might decide upon. That would be extremely unfortunate. That would permit our amendment to become another Tonkin Gulf resolution—if not even broader in conception—if the President were to decide later to use it for that purpose.

Mr. SPONG. Mr. President, will the Senator from Kentucky further yield?

Mr. COOPER. I yield.

Mr. SPONG. I address this question either to the Senator from Kentucky or the Senator from Idaho. They are both in the same boat.

Mr. COOPER. It is a good boat.

Mr. SPONG. I, of course, am interested in what Senator Byrd's reply will be to the questions I have propounded; but I should like the opinion of either of the sponsors of the Cooper-Church amendment whether they believe that under the language of the Byrd amendment the President would be granted tacit authority to order his military commanders in the field to do all these things.

Mr. CHURCH. My answer would be "Yes."

Mr. COOPER. The Senator from Virginia asked about the Byrd amendment. Let me read it. I should like to place it in the RECORD. It reads as follows:

On page 5, line 7, before the semicolon insert a comma and the following: except that the foregoing provision of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam".

The amendment has great appeal, because it speaks of protecting the lives of U.S. forces in South Vietnam. It will be argued and has been argued that Senators who vote against the amendment are not taking care to protect the U.S. forces in South Vietnam.

The Byrd-Griffin amendment cannot give the President any larger powers than the constitutional authority that he enjoys. What it would do, if it should be adopted by Congress, would be to approve in advance any action the President may want to take. His determination alone would justify it.

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I want to make it clear that I am not talking in personal terms of the Executive who is President Nixon. He is my President. I am a member of his party. I have supported him in his program for ending the war in Vietnam. But we have been through this procedure before, the procedure of giving authority to the President, who did not intend, I am sure, to extend the authority which is given him beyond that as expressed at the time, but which was extended.

This amendment is broader in its scope than the Tonkin Gulf resolution, so far as the protection of troops is concerned.

The Tonkin Gulf resolution has two parts, one dealing with protection of the troops, and the other dealing with protection of the freedom of the protocol states. The Tonkin Gulf resolution gave the President authority—I recall it because I read it just a short time ago—to protect troops, to repel an attack upon the troops, and to defend them. It was defensive—to repel an attack on our troops and defend them. This amendment is like the old, familiar barn door—wide open.

If some situation should occur, if the Thais go into Cambodia—and the South Vietnamese evidently like Cambodia—and we find ourselves under some obligation to go into Cambodia and protect Cambodians or the Thais, I believe the commonsense and judgment of the Members of this body would be that the authority to do so would be the joint authority of the President and the Congress.

We do not take away from the President the opportunity to employ any course of action he wants to employ, but if the situation is beyond the defense of the Armed Forces let us say, "It is a joint responsibility and let us reason together and let us determine whether action should be taken." I do not see anything wrong with that.

Mr. SPONG. I thank the Senator from Kentucky.

Does the Senator from Kentucky believe that the Cooper-Church amendment would be harmed if in that amendment the independent powers of the President, as Commander in Chief, which the Senator believes to be already held by the President of the United States, were spelled out?

Mr. COOPER. I doubt if we could spell out precisely what they are. I have indicated some, through reading the authorities that I have found, that have been characterized as being his powers.

Mr. SPONG. What we have before us, as the Senator from Kentucky has ably pointed out, is appealing language, in which we are speaking in terms of the protection of the troops and aiding our disengagement from South Vietnam. Within that framework, which is the common objective of all of us, it is my judgment that if the Senate in some way should work its will to express clearly those independent powers which the President possesses as Commander in Chief, the amendment would be strengthened.

Mr. COOPER. I am not foreclosing the possibility that it may be done, but we

are now talking about the Byrd amendment.

I would like to read from the Tonkin Gulf resolution relating to the subject we are now discussing:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

It is more limited in its terms than the Byrd amendment.

Mr. CHURCH. Mr. President, would the Senator permit me to make an observation at this point? The Senator from Virginia placed in the Record yesterday five very specific hypotheses. I think the difficulty of trying legislatively to define the President's constitutional authority is in a way underscored by reference to the hypotheses that the Senator has offered. Let us take them one by one.

The first reads as follows:

To prevent enemy forces from crossing the border into South Vietnam and to pursue and destroy such forces as they attempt to leave South Vietnam for Cambodia? This contemplates a distance into Cambodia of no more than two or three miles.

Here is an example that falls within the area where the President's constitutional powers as Commander in Chief are being exercised. This is frequently referred to as a case of hot pursuit. I think without doubt the President has the power of hot pursuit in the protection of American forces, even though the hot pursuit carries our troops over the Cambodian border.

The second hypothesis reads as follows:

To destroy enemy supplies, staging area, headquarters, and so forth, in a relatively narrow zone along the Cambodian-South Vietnamese border? This contemplates a zone into Cambodia of approximately 20 miles in width.

The answer to this question depends upon the method used and upon the time frame. Without doubt, the President could invoke his powers as Commander in Chief to order aerial or artillery strikes against bases of this kind. In fact, the precedents would carry still further: That he could launch a ground strike of limited duration for the purpose of destroying an enemy staging area that constituted an immediate threat to American troops.

Mr. SPONG. If I may interrupt, the Senator from Idaho is, of course, speaking of the powers the President has now?

Mr. CHURCH. Right.

Mr. SPONG. Exclusive of the Byrd amendment?

Mr. CHURCH. This is exactly so; he now has those powers under the Constitution.

Now, moving on to the third hypothesis:

To attempt to find and engage any enemy troops within the zone just described, irrespective of whether they are on the verge of entering South Vietnam or whether they are just returning from it?

If the Senator means by that the power to go into Cambodia and to seek out the enemy, even though enemy activity there is not posing an immediate threat to our troops on the other side of the border, then we have probably crossed that line.

Mr. SPONG. Would the Senator from Idaho call this a gray area?

Mr. CHURCH. It is an exceedingly gray area; the precedents are not clear. If the Senate adopts the Byrd amendment, however, there is no doubt in my mind that the amendment can be construed as giving advance congressional consent to the President to undertake that kind of activity, if it is done in the name of protecting American forces in South Vietnam.

Now, the fourth illustration:

To attempt to occupy and hold the zone in question, thus denying it to the enemy?

Here the Senator from Virginia contemplates a quasi-permanent occupation of a buffer zone within Cambodia. That goes beyond the precedents defining the President's inherent constitutional authority. But again I say to the Senator that if the Byrd amendment is adopted, it could readily be interpreted as conferring advance consent to a permanent occupation of a buffer zone by American forces. The next hypothesis:

Fifth. To engage in any or all of the types of activity described in questions 2, 3, and 4, but to do so throughout all of Cambodia, or at least in parts of it beyond the 20-mile zone near the border?

This, of course, takes the wraps off entirely. Although none of us expects that the President would make such a decision in the future, I remind the Senator that we have been surprised before; presidential policy has been changed before. If President Nixon were to change his policy, he could refer to the Byrd language in much the same manner as President Johnson came to refer to the Gulf of Tonkin language, thus justifying any military activity in Cambodia, no matter how far it extends or how permanent it becomes, as long as he undertakes it in the name of protecting American forces in South Vietnam.

These are the best answers I can give to the distinguished Senator from Virginia.

Mr. COOPER. Mr. President, I agree with the interpretation of the Senator from Idaho.

Mr. SPONG. I appreciate the answers of both the Senator from Idaho and the Senator from Kentucky. I agree with the Senator from Kentucky that it would be extremely difficult to define language that spelled out the President's independent powers as Commander in Chief. Nevertheless, if such terms as "repel an attack" could be employed, I suggest it would be helpful—

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

Mr. SPONG. After I finish my sentence—helpful within the framework that the Senate presently finds itself working.

The Senator from Kentucky has the floor.

Mr. COOPER. I would just say one thing: The Senator is absolutely correct

when he says it is very difficult to define these powers.

Let us see if we can find out why it is difficult.

—It is difficult, in my view, because it is of an emergency nature, dependent upon the circumstances. Who can say what the circumstances will be in the case of a sudden attack or an emergency situation? The situations would differ in every case. This, it seems to me, is the reason it is difficult to spell out the powers of the President.

But it is not difficult to think of situations where the Executive should not act alone, without consent of the Congress—those which are unrelated to the immediate defense of the troops. There must be situations in which Congress also has joint constitutional authority.

Mr. DOLE. Will the Senator from Kentucky yield?

Mr. COOPER. I yield.

Mr. DOLE. I might suggest to the Senator from Virginia that a section might be added as No. 5, to the Church-Cooper amendment, which would say, in effect, that "nothing herein contained shall impair the President's constitutional powers as Commander in Chief." That is a recognition of the President's powers, but not an effort to spell out every power the President might have and every right he might have. This is somewhat different from the suggested Byrd amendment.

Second, in reviewing the questions raised by the distinguished Senator from Virginia, it appears that the first, second, third, and fifth questions could be achieved with the Church-Cooper amendment, without adoption of the Byrd amendment, as long as the action was not in support of Cambodian forces. The only one I see that might be precluded by the adoption of the Church-Cooper resolution would be No. 4, "To attempt to occupy and hold the zone in question, thus denying it to the enemy."

That would violate clause 1, with respect to retaining U.S. forces in Cambodia. But the other three sections of the Church-Cooper resolution are directed at support of the Cambodian forces; so I fail to see that the Church-Cooper resolution is a prohibition against consideration of points one, two, three, or five raised by the Senator from Virginia, whether or not the amendment offered by the Senator from West Virginia (Mr. BYRD), is adopted.

Mr. SPONG. The Senator from Kansas has demonstrated the varying interpretations this language is subject to.

In a preface to posing the questions, I expressed the opinion that the Senate has a responsibility to try to work its will with the most specific language possible, if it wishes to participate in the formulation of policy with regard to Cambodia in the future.

What I conceive the Cooper-Church amendment to be attempting, in part, to do is to redefine the military theater.

I do not believe, as long as the Senators acknowledge what the Commander in Chief's powers are, that the Senate would be trying to tell the Commander how to operate the war, although I am not certain that at the present time that the amendment is not open to that interpretation.

I believe what is sought to be accomplished is a redefining of the theater of war—saying, in part, that the Senate does not want a new war beyond a certain point without consultation with Congress.

Mr. COOPER. We say that in subsections 2 and 3. I might say that the Senator has obviously given this matter a great deal of thought, because the questions are searching, and go to nearly all the points that we have thought about.

We consider that subsections 2 and 3 concern themselves with the issue of a new war for Cambodia, in which we are under no obligation, and subsection 1 would be designed to prevent the extension of the war into Cambodia beyond the actual powers of the Commander in Chief.

Mr. SPONG. I thank the Senator from Kentucky.

Mr. BAYH. Mr. President, as might have been expected, the fall of the neutralist Sihanouk government in Cambodia in early March of this year immediately raised the question of American assistance to the anti-Communist Lon Nol regime. Administration officials stated publicly that a request for military aid was being reviewed, but went further in saying that no American troops would be involved in Cambodia in accord with the President's Guam doctrine, which, as we know, was designed to try to shift security responsibility onto the nations of a given region.

Testifying before a House Appropriations Subcommittee on April 23, Secretary of State Rogers was asked about the extent to which the United States might be drawn into Cambodia. I think it is significant, in light of this discussion, to review his remarks. He said directly:

We have no incentive to escalate. Our whole incentive is to de-escalate. We recognize that if we escalate and get involved in Cambodia with our ground troops, that our whole program (Vietnamization) is defeated.

The Secretary later restated the case against our involvement in Cambodia in much the same language before the Senate Foreign Relations Committee.

At the very same time the Secretary of State was cautioning against a wider war in Asia, we know now that contingency plans for U.S. military operations in Cambodia were being studied by the Secretary of Defense, the National Security Council, General Abrams, and the President himself. In fact, it appears that at the time President Nixon made his April 20 statement announcing the possible withdrawal of 150,000 troops during the next year, he had reviewed the Cambodian plans but tentatively deferred a decision.

The President's April 30 decision to invade Cambodia—taken after consultation within the executive but without so much as a passing nod to any congressional leaders—was a dangerous and irresponsible course of action. I must say, at the risk of sounding as if I am personally piqued at not being consulted, that this is not what I mean by a passing nod to anyone in the legislative branch. I would not expect the President of the United States to consult on this matter with the junior Senator from Indiana, nor—at the risk of being disrespectful—with our distinguished Presiding Officer,

the senior Senator from Ohio (Mr. Young). It seems to me that he could have consulted with the leadership of his own party and with the leadership of the relevant committees. But, as the record now shows, this did not happen.

Recent accounts of the decisionmaking process that led the President to authorize the Cambodian adventure serve only to confirm this view. It seems that President Nixon gambled that by suddenly widening the war into Cambodia, his toughness would impress the North Vietnamese and the rest of the Communist world that the United States can act vigorously, swiftly, and unpredictably.

If this was the message the President hoped to convey, it obviously was lost on the North Vietnamese, who indicated no greater willingness to discuss a negotiated settlement in the absence of a Presidential envoy at the Paris talks, and on the Russians, who continue to expand their military and political influence in the strategic Middle East.

In an aside, let me suggest that I hope the administration is giving increasing attention to the need to find a prestigious envoy to represent us at the peace talks. The Senator from Indiana is not so naive as to believe that this is automatically going to bring a successful culmination of the negotiation session, that peace will automatically descend with the appointment of a prestigious Presidential envoy. But it is fair to say that at least our chances of success are greater if, indeed, we do have someone of significant prestige representing the President there personally. In addition, I think it is fair to say that from the standpoint of the world forum, the view that others have of the United States will be significantly different if they see that we are making a maximum effort at the peace table to negotiate a settlement. Apparently, that is not the case now.

It appears to me that by committing the United States even further into this Asian quagmire the President, contrary to his own plan, has inadvertently restricted our options in other, more important areas of the world.

President Nixon's claim that the Cambodian operation was necessary because Vietnamization was threatened by a recent buildup in the border area sanctuaries sounds plausible, but when one examines the facts and the history of the situation as it actually unfolded, the President's explanation is not acceptable. Did these sanctuaries suddenly present an increased military threat to our men in Vietnam between April 20, when the President told the Nation that all was going well, and April 30, when the Cambodian attack was announced?

The reverse appears to be closer to the fact. Around mid-April, following the consolidation of the Lon Nol regime, the military situation in Cambodia forced the Communists to turn westward, away from Saigon and toward Phnompenh in order to protect their vital supply lines. In a little noticed statement of May 14, Secretary of Defense Laird seemed to substantiate this when he pointed out, for example, that nearly one-third of all Communist forces in Cambodia were now "facing the other direction and moving away from the sanctuary areas."

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By the end of April, the size of the Communist force in the Cambodian sanctuary areas was greatly reduced and the risks involved in a search-and-destroy move across the border were thus greatly diminished. Our military urged that we take advantage of the situation. As Secretary Laird explained, "this was the time to hit them."

That the military had made a similar pleas during the Johnson administration for cleaning out the Cambodian sanctuaries—and had been rebuffed—is now clear. As Paul Warnke, former Assistant Secretary of Defense for International Security Affairs, said, these proposals were always rejected because "the political price was too high for the relatively minor military gain." That the military gains from search-and-destroy missions have been temporary at best—and expensive—is a lesson we should have learned by now.

Too often in the past we have asked our troops to take a so-called strategic emplacement, at great cost to us in lives, and military materiel, only to abandon it and to have to take the same place later. Are the Cambodian sanctuaries to become a new Hamburger Hill? I think it is a fair question for us to ask and for the people to ask.

Despite the success claimed for it, I doubt that the Cambodian operation will have any really lasting significance from a long term military standpoint. "Any military gains," as former Secretary of Defense Clark Clifford has said, "will be temporary and inconsequential." The former Secretary of Defense went on to say:

This is not an idle prognostication upon my part but is an opinion derived from past experience. Time and again in South Vietnam the recommendation was made that a sweep be conducted through the Ashau Valley on the grounds that a vital blow could be struck against enemy forces. Time and again, thousands of American troops would sweep through the valley and find practically no enemy soldiers. The same will happen in Cambodia.

After the adventure is concluded and our troops have been pulled back to South Vietnam, I predict the enemy will quickly reoccupy the areas that we have cleared. Even if the decision were made to remain in Cambodia, then I predict the enemy will develop new bases and staging areas just outside the perimeter of the area we occupy in Cambodia. In either event, the military effect is negligible and not worth the effort.

Our temporary military advantage in Cambodia notwithstanding, I believe that the political price—both at home and abroad—is still too high to justify such a reckless adventure.

Mr. President early in 1968, I spent 3 weeks in that part of the world. In fact, I landed back in the United States the first day the Tet offensive exploded in South Vietnam. We were in all corners of Vietnam and tried to explore as thoroughly as we could, on a non-VIP basis, without the red carpet treatment, what was going on. It gave me a better understanding of some of the complexities of Vietnam, although I hasten to add that it certainly did not make me an expert. I must admit, though, that of all the questions asked me by American military personnel, the most difficult one to

answer—and I pose it only because I think it bears some significance on the discussion of whether the adventure in Cambodia was wise or unwise—the question which was asked me repeatedly by GI's was:

"Senator, tell me, did it make sense to have my outfit take that hill, that hamlet, or that village 3 months ago, where I saw two of my buddies fall, only to have to go back next week and retake the same territory once again?"

That is the operational effect of search and destroy missions—and that is we are involved in Cambodia, and have been involved in unsuccessfully in South Vietnam over a period of years. This type of operation has not been successful earlier and I personally see little reason to expect any greater success in the future.

That the President's action has escalated and widened the ill-fated Vietnam war already is apparent. The stepped-up Communist activity around Phom Penh, the heavy fighting in Laos, and the widespread and coordinated attacks within Vietnam itself are early but clear signs of an impending confrontation throughout Indochina. The Vietnam war is fast becoming an Indochina war.

I noticed yesterday, in one of the Washington newspapers, a reevaluation of earlier intelligence data relative to North Vietnam and Vietcong forces, particularly North Vietnam forces. The first estimates of enemy troop strength were in the neighborhood of about 50,000 to 52,000 troops. Because of the increased activity following Cambodia, however, a recent reappraisal has been made which leads one to believe that their forces are now almost twice that number—that more than 90,000 North Vietnamese forces are presently in South Vietnam.

Thus, I think it would be a serious error for us to underestimate the forces of the enemy remaining in Vietnam, at the same time the scope of battle seems to be widening throughout all of Indochina.

And now a more disturbing note. Writing in the New York Times of May 26, Harrison Salisbury reported that:

Information . . . from sources close to Communist leaders in Asia suggests that the United States move into Cambodia has transformed the Indochina situation more radically than originally estimated.

An all-for-one and one-for-all agreement, apparently has been reached, according to this report, between the North Vietnamese, the Vietcong, Prince Sihanouk, and the Pathet Lao—with the full backing of Communist China.

What this means, in effect, is that there is almost no prospect for a political settlement of Vietnam alone. A negotiated settlement would now have to cover Cambodia and Laos as well. On the basis of the snail-like pace of the Paris talks, such a settlement is not likely to emerge in the near future, and seems less likely now than prior to the Cambodian invasion.

I am deeply concerned then that this Cambodian adventure will prolong the war and our unfortunate involvement in it. That it undermines the President's already fragile Vietnamization policy—

as Secretary of State Rogers suggested—is clear. The withdrawal of American combat troops from South Vietnam, even under the most favorable military and political conditions, will place a heavy burden on the Saigon government and its troops.

That the repressive Thieu-Ky regime is not going to be blessed with a favorable political climate is predictable on the basis of widespread antigovernment sentiment, sentiment that is likely to increase as Thieu continues to stifle legitimate dissent. That the North Vietnamese and the Vietcong will not slacken their activity to accommodate U.S. withdrawals is also predictable. The recent attack on Dalat, for example, was simply a sign to Saigon that the enemy can—and will—attack when it so chooses.

What can we reasonably expect, if as Vice President Ky and Ambassador Bunker have indicated, the South Vietnamese continue to involve themselves militarily in the Cambodian civil war after the United States has pulled out? The prospects for Vietnamization, with 40,000 South Vietnamese fighting in Cambodia, are not encouraging. The critical need, if the President's withdrawal schedule is to be met, will be in South Vietnam—not in Cambodia. Indeed, if South Vietnamese forces are to broaden the scope of their involvement, it seems to me likely to lessen their effectiveness in pacifying the countryside in South Vietnam.

The President has failed to recognize the contradiction in a policy that seeks to Vietnamize the war in South Vietnam while it Americanizes the war in Cambodia.

The implications of the President's rash action for the whole of Southeast Asia are, however, only a part of my concern. The most important consequences of this reckless gamble are being felt here at home.

I think it is imperative that all of us assess the Vietnam war or, the Indochinese confrontation, on the basis of the facts as they exist today. It would be a tragedy, indeed, if today's decisions or tomorrow's decisions were based on yesterday's actions or yesterday's mistakes. The future of such policies would not only be disastrous but would, indeed, compound yesterday's errors.

Thus, I find myself looking differently at the Vietnam situation today than I did 5 years ago or as I did 12 months ago. During the early months of this administration, the Senator from Indiana, although not agreeing fully with administration policy, nevertheless felt obliged to give the President sufficient time to implement the plan he had for disengaging this country from the quagmire of South Vietnam.

I can no longer stand mute, Mr. President (Mr. Moss), not only because of a change in direction in our policy in South Vietnam but also because of the dangerous consequences of this new course on the domestic front.

The tragic deaths at Kent State—an outgrowth of protest against the President's sudden widening of the conflict—are a grim reminder of what this war is doing to America. Even before Cam-

bodia, it was no exaggeration to say that the war in Vietnam was tearing at the very fabric of our society, a war that has cost 43,000 American lives; 275,000 American wounded; 100 billion American dollars.

And for what—to prop up the Thieu-Ky regime? All of this while American cities decay, while unemployment and inflation worsen, while social tensions are heightened and the unfinished business of America remains unfinished.

The war, in addition to the tragic human toll it takes, is the major source of our present economic ills—an unhealthy mixture of inflation and recession.

Just how we achieved this worst of both worlds economy is certainly no mystery. Around the middle of 1965, as was pointed out in the 1968 annual report of the Council of Economic Advisors:

The growth of demand for industrial products suddenly accelerated as the direct and indirect consequences of the enlarged commitment of U.S. forces in Vietnam . . .

Prices of consumer services began to accelerate, as service firms found it more difficult to obtain workers. With rising food and service prices and stronger demands for labor, upward pressures on wages intensified in both the organized and unorganized sectors. In the industrial area, the impact of demand on prices was strongest in the defense-related and capital goods sectors, where shortages of both capacity and skilled manpower were most pronounced. But prices also advanced in many other areas.

The upward pressures on prices and wages in this period reflected both the speed of the advance and the high level of resource utilization which the economy achieved. These pressures tripped off a price-wage spiral.

Largely as the result of our deepening involvement in Vietnam, in the 2-year period from mid-1965 to mid-1967, the value of resources devoted to national defense rose 50 percent. In an economy operating at near capacity, this buildup generated tremendous inflationary pressures. In January, 1969, when President Nixon took office, these pressures were still very much alive—as was our involvement in Southeast Asia. A year and a half later and little has changed, except that the President is now set upon a course that deliberately seeks to increase unemployment in order to combat this Vietnam-generated inflation. The American people have already paid a very dear price for our Vietnamese adventure. To ask this Nation to bear an intolerable rate of unemployment—now at 5 percent and rising—to further pay for this seemingly endless and senseless war is to ask too much in my judgment.

And now Cambodia. A nation that had been promised an early end to the war by a presidential candidate with a fool-proof plan, now finds itself faced with a great difference between what was said and what was delivered, and is once again treated to double-talk. The President has told us that in order to shorten the war in Vietnam we must widen it into Cambodia. The logic of this Cambodian adventure, I must admit, escapes me.

What America needs—and needs desperately—is not a wider war or a shorter war, but a conclusive end to the war.

Still the war goes on. It appears that not only is there no effective means for fulfilling the campaign promises of peace, but that there is no way of preventing an even wider war. The war seems to have taken on a life and logic all of its own. It has captured President Nixon in much the same way it imprisoned President Johnson.

The history of our involvement in Vietnam reveals that too often Government officials have become the victims of their own rhetoric. Only now it is captured arms and rice tonnage instead of body counts that may lead us into self-delusion.

The bizarre logic of recent events, as one might reasonably have predicted, is producing a growing sense of frustration and impotence both publicly and within the Congress itself. The President's reckless gamble has precipitated a crisis of confidence. And well it might have, with the Cambodian invasion coming only 10 days after the President's report to the Nation on Vietnam with its rosy predictions for cutting back on American involvement.

Mr. President, I think it is important that we not delude ourselves into the false hopes of some that these feelings are confined to the young and the campus. They are not. This sense of frustration is shared by millions of Americans of all ages. I think that most Members of the Senate feel it. Certainly, I feel it.

For 16 months I have said little about the war. To be sure, I was deeply concerned about its continuation. I did not agree totally with the Nixon policy for ending the conflict. However, as long as we were disengaging from the conflict I was determined to cooperate with the President. But now I must admit that the President's action has led me to despair about the prospects for liquidating our involvement in Vietnam. I am not ready to concede, however, that our system of government cannot respond. It can—but only if the Senate of the United States is prepared to exercise its constitutional authority and accept responsibility for limiting American participation in the Vietnamese quagmire.

This responsibility should not be taken lightly. Certainly, I do not look on it as a small responsibility. And I am sure that no other Senator does either. But today the Senate stands as the last hope against any further escalation of the war. Passage of the Cooper-Church amendment would not only restore the faith of millions of Americans in our system of government, but it would also restore the Congress to its rightful place within our constitutional framework—as the only body empowered to declare war, to raise and support armies, and to make rules for the governing and regulations of these forces.

I have weighed these salutary effects against the argument, advanced by opponents of the amendment, that it would be a "slap in the face" for the President and undermine his credibility abroad. The "slap in the face" theory, it seems to me, is both specious and irrelevant. It is specious because there is little the Senate could do to undermine the President's credibility abroad any more than he himself has done by expanding

our misadventure or damage that could be done if the President failed to live up to his own timetable in Cambodia. It is irrelevant because it avoids the issue of whether American troops should become involved in Cambodia without congressional sanction and authorization.

This brings me to the two most basic questions of all in this debate. First, does Congress have the power to deny funds for the use of future military operations in Cambodia? Second, should Congress exercise that power if they have it?

On the first point, the Constitution is clear. Congress does have the power to act. The framers of the Constitution wisely anticipated the difficulty of maintaining effective civilian control over military policy, and thus they provided the specific means for exercising such control.

In order to avoid concentrating authority in any one body, the war power was divided between the President and the Congress. The Congress—not the President—was empowered to declare war, to raise and support an army and a navy, and to make rules for the Government and regulation of these forces. The President, who was also viewed as a symbol of civilian authority—but one more susceptible to the blandishments of the military—was made Commander in Chief.

The President, as Commander in Chief, is responsible for the conduct of military activities once war has been declared, and clearly he also has the power to repel any attacks on the United States. As Commander in Chief, the President alone is responsible for implementing military policy. In much the same way, the President alone is responsible for seeing that "the laws be faithfully executed."

But the President's power as Commander in Chief no more warrants the conclusion that he alone has the power to formulate military policy than does his obligation to enforce the law imply that he alone can make laws. As Justice Black pointed out in the steel seizure case:

The Constitution is neither silent nor equivocal about who shall make laws which the President is to execute . . . The Constitution does not subject this lawmaking power of Congress to presidential or military supervision or control . . . The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good times and bad. *Youngstown Sheet and Tube Co. v. Sawyer*, 343 US 587 (1952)

I believe the lawmaking powers of Congress extend to the formulation of military policy as well, as is so clearly spelled out in article I, section 8. And it was upon that grant of authority, I want to remind my colleagues, that Congress acted so wisely last year to prohibit the use of funds for the introduction of American forces into Laos.

The introduction of American forces into a country where they have previously been restricted from venturing for fear of widening the war, despite the pleas of the military, is clearly a major policy decision. At the very least, it seems to me, the Constitution requires that such a decision should have been shared by the people's representatives in Congress.

The concern of the framers of the Constitution, moreover, was not simply

limited to dividing the war power between the Congress and the President. They specifically provided that congressional authority was to be insulated from Presidential encroachment by a constitutional requirement that military appropriations could not be for longer than 2 years. Alexander Hamilton, himself an ardent advocate of a strong executive, explained the importance of the 2-year limitation in Federalist Paper No. 26:

The legislature of the United States will be obliged by this provision, once at least in every two years, to deliberate upon the propriety of keeping a military force on foot; to come to a new resolution on the point; and to declare their sense of the matter by a formal vote in the face of their constituents. They are not at liberty to vest in the executive department permanent funds for the support of an army, if they were even incautious enough to be willing to repose in it so improper a confidence.

The specific purpose of the 2-year limitation was to act as a brake on the growth of a standing army, which at that time was considered the major threat to constitutional processes. The larger import of the appropriations limitation, however, is that Congress is required to fully review and pass on our military posture before the expenditure of additional money. The congressional appropriations power as it relates to military policy, therefore, was clearly intended as an important constitutional check on both the President and the Armed Forces.

That Congress, after many years of simply acquiescing to executive leadership in military and foreign affairs, has recently chosen to exercise its constitutional powers, seems to have startled some people. That Congress has not acted so forcefully for so long, of course, in no way affected its authority to act last year in regard to Laos and similarly does not affect its authority for acting now to prohibit American combat troops from fighting in Cambodia after July 1, 1970. As Justice Black said in the Youngstown case, "The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good times and bad." That Congress retains this power today is obvious.

That Congress should exercise this power to limit future American military operations in Cambodia, of course, is a different and more delicate question. And I want to re-emphasize the term "to limit future American military operations in Cambodia." I did not say "to limit the President." For, contrary to the message opponents of the amendment are intent upon conveying, it is not designed to—nor could it—limit the President's powers as Commander in Chief. These powers are constitutional and Congress cannot legislate away or infringe upon the President's constitutional authority.

But Congress can—and should—exercise its own constitutional authority to legislate the limits of American military policy in Southeast Asia. Rejecting the view that the Commander in Chief clause supports "any Presidential action, internal or external, involving the use of force," Justice Robert Jackson wrote:

Congress alone controls the raising of revenues and their appropriations and may determine in what manner and by what means

they shall be spent for military and naval procurement.

And in further attempting to define the precarious constitutional balance between the President as Commander in Chief and the Congress' lawmaking power, Justice Jackson pointed out:

Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress. . . . When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb. . . . Courts can sustain exclusive presidential control in such a case only by disabling the Congress from acting on the subject. Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution, for, what is at stake, is the equilibrium established by our constitutional system.

Precisely, what is at stake is the integrity of our constitutional process. And because the stakes are so high, it is necessary for Congress to act. As the New Yorker magazine has said, in explaining the larger implications of this breakdown in our governmental system:

If the United States government fails to honor the freedom of its own people, who are protected by the American Constitution, it will not honor the freedom of any people. This is the true relationship between the invasion of Cambodia and the survival of the free institutions that President Nixon mentioned in his speech, and for this reason the invasion of Cambodia and its consequences within America are the urgent concern not only of Americans but of all mankind.

Mr. President, passage of the Cooper-Church amendment would mark the beginning step in Congress' long journey back to a position of responsibility and leadership. I am confident Congress will take this step because it is both necessary and right that it do so.

Mr. President, I must confess that I had begun work on this statement long before President Nixon's June 3 interim report. After carefully studying the President's statement I saw no need, however, to alter the text of my remarks in support of the Cooper-Church amendment. After hearing the President recite those statistics on captured arms and rice and announce a troop withdrawal of 50,000 men within the next 6 months, I am even more certain today that expanding the war into Cambodia was ill-advised and shortsighted than I was on April 30 when the decision was announced.

Before Cambodia, Mr. President, the Nixon policy of Vietnamization was pulling Americans out of Vietnam at the rate of about 11,000 per month. Now, after an operation in which the President has told us that "all of our major military objectives have been achieved," and an operation he has described as the greatest victory in the long history of the war—the withdrawal rate for the next 6 months is down about 2,000 per month. To be sure, it is conceivable that we could double this amount in the following 6 months. It seems rather strange to the Senator from Indiana, however, that if this mission had been such an overall success why his withdrawal rate for the next 6 months is significantly less than the last 6 months.

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

Mr. BAYH. Mr. President, I shall be no more than another minute and then I will be happy to yield to the Senator from Florida for questions or yield the floor. I appreciate his tolerance, and I will be glad to discuss this matter with him.

As for the seemingly vast inventory of captured weapons and food, its significance can only be measured in terms of North Vietnam's total resources and its ability to replenish the losses. While the Cambodian booty may be greater than caches uncovered as the result of operations Junction City and Cedar Falls, for example, it appears that in the past these missions have had little long-term significance.

No one knows for sure what the true, long-range impact of the capturing of these supplies will be. Certainly I would rather have them in our hands than in the hands of the enemy. But if anyone is looking at this adventure as a panacea for ending the war, history, I believe, will show he is relying on a false hope. In the past the enemy has shown an amazing ability to replenish his lines of communication and supplies, and, unfortunately, to continue the war at a steady pace.

It struck me, Mr. President, that what was noticeably absent from President Nixon's June 3 report was any reference to COSVN, the Communist control center located in Cambodia. In his April 30 statement announcing his decision to expand the war into Cambodia, President Nixon seemed to indicate that we would be striking a telling, perhaps even fatal, blow to the command center for all Communist operations in South Vietnam. The President's failure to even mention this aspect of the operation could only mean there is no COSVN—or we failed to uncover it. One wonders.

In the past, we have found that even though we had been able to capture Communist control centers, it was only a short time until new control centers sprung up. The amazing absence of enemy troops and casualties in that area leads us to believe that the major Communist forces had escaped.

Mr. President, one final thought on the amendment offered by the Senator from West Virginia (Mr. Byrd). The Byrd exception to the Cooper-Church amendment provides that the amendment shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of U.S. forces from South Vietnam.

If this is simply a restatement of the President's constitutional powers as Commander in Chief, then it is unnecessary. As I pointed out earlier in my statement, just as Congress cannot legislate restrictions on the President's constitutional authority as Commander in Chief, it cannot expand those powers by statute. I recognize the President's responsibility to protect our forces in the field, but I do not believe he needs Congressional approval for this.

I believe he has the constitutional authority, in the first place. It is interest-

ing to note, Mr. President, that the amendment adopted last year restricting our operations in Laos and Thailand carried no such exception. And yet for years, we have known that the Ho Chi Minh Trail, running down through one corner of Laos, has been a major supply route and sanctuary.

On the other hand, if the Byrd exception is another Gulf of Tonkin resolution—a blank check from Congress approving in advance any actions the President may take—then it is dangerous.

Such a gesture by the Congress can only serve to widen the war and continue our unfortunate involvement.

All of us are concerned about protecting American fighting men. It just seems to the Senator from Indiana, after a long period of patience, that the best way to protect our American fighting men is to end the war.

I yield to the Senator from Florida.

Mr. GURNEY. There were some aspects of the Senator's presentation that I wanted to question him on. Going back to the first question, about troop withdrawal, it was my impression that the President announced, about a year ago, his Vietnamization process, his planned troop withdrawal, and the approximate figures during the first year were about 100,000. It is now about 115,000, but during the first year the goal was about 100,000.

Then, of course, in April—I think April 20, to be exact—the President announced a further planned withdrawal of 150,000. The Senator from Indiana made the point that troop withdrawal was slowing up. I did not understand that. Would he further explain?

Mr. BAYH. If the Senator from Florida would reexamine the figures on the rate of withdrawal and compare those, not with the 150,000 figure over the next year as announced on April 20, but with the 50,000 figure that is to take place between October 15 and the present date, I think his arithmetic would lead the Senator from Florida to the same conclusion reached by the Senator from Indiana.

Mr. GURNEY. Well, how many troops have been withdrawn to date?

Mr. BAYH. About 110,000. I am sure the Senator from Florida has ready access to those figures.

Mr. GURNEY. That was about the same figure I had, or about 100,000, as the President planned during the first year. But is it not also a fact that he has scheduled 150,000 to be withdrawn during the next year, and is not that a greater figure than 100,000?

Mr. BAYH. I am well aware of the announcement, I am also well aware of the fact that I watched on television the Commander in Chief of the U.S. Armed Forces characterize the Cambodian operation as the greatest military victory in the Vietnam war. Then he suggested that for 6 months following that great victory our troop withdrawal is going to be less than the previous 6 months. That does not make sense to me. Perhaps the Senator from Florida can explain its inconsistency.

Mr. GURNEY. Let me ask the Senator if he can recall any announcement or pronouncement the Commander in Chief, the President of the United States, has

made, on the war in Vietnam which he has not fulfilled so far.

Mr. BAYH. Yes. I can remember hearing certain of our colleagues on the floor of the Senate bring to the attention of the Senate the fact that after the initial announcement of withdrawals, in fact, there was a significant period of time when, instead of fewer troops in Vietnam, there were more troops in Vietnam. I am pleased to answer the questions of the Senator from Florida, but can he, in turn, explain the inconsistency pointed out by the Senator from Indiana?

Mr. GURNEY. Why does not the Senator answer my question?

Mr. BAYH. I did.

Mr. GURNEY. The question was, on any pronouncement or announcement by the President of what he intends to do in Vietnam, where has he failed the people of the United States? I think the Senator has not answered it.

Mr. BAYH. I think the Senator from Indiana looks at the problem from a little different perspective than the Senator from Florida, because we believe the course of action in Cambodia will accomplish different things. Frankly, I say, not as a Democrat or as a Senator, but as a citizen of this country, I hope the judgment of the Senator from Florida is right. But I think history will show, if we can judge the future by the past, that it is not going to prove consequential in the long history of the war, and that it has increased tensions within this country.

Mr. GURNEY. Since the Senator from Indiana has not answered the question—

Mr. BAYH. I have answered the question. The RECORD will show that I have answered the question.

Mr. CHURCH. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. BAYH. Mr. President, if the Senator from Florida wants me to mouth and repeat his assessments, he is not going to get me to do that. If he wants me to give good faith replies to his questions, I will stand here until the sun falls.

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

Mr. BAYH. I yield.

Mr. GURNEY. During his presentation, the Senator from Indiana made the statement that the incursion into Cambodia would prolong the war. Would he explain that further? In what way is it going to prolong the war?

Mr. BAYH. Mr. President, I know there are other Senators who want to speak. I would be glad to give the Senator a copy of my speech. Perhaps if he had read it or listened to it in total, he would know that I had answered that in a significant way.

Mr. GURNEY. I listened to it at length, but I did not hear anything beyond the statement itself.

Mr. BAYH. Well, here again I respect the good faith and the sincerity of my friend from Florida; but I fear that after I have answered the question, it is not going to be answered the way he wants it to be answered, and so he may feel that I have not answered it. But, having

given this advance warning, I shall try.

It is difficult for the Senator from Indiana to see how we can be consistent in a policy that Vietnamizes the war in Vietnam and Americanizes it in Cambodia, without suggesting we are broadening the scope of the war. If we are taking South Vietnamese troops from the main scene of battle in South Vietnam, and dissipating their impact by spreading them into Cambodia, the Senator from Indiana cannot see how Vietnamization will proceed apace. In fact, it is rather interesting to me to note—and I am sure the Senator from Florida heard the remarks that I read of the Secretary of State relative to Vietnamization—seems that we have a considerable amount of inconsistency. The Senator from Indiana does not believe that the Cambodian adventure is not going to do anything to shorten the war. I hope I am wrong. But if we look at what happened in the Ashau Valley and what happened in the Iron Triangle, and we were shown pictures in our newspapers and on our television screens of captured supplies and weapons, we know that these missions accomplished little. I would much rather we had these weapons than they did; but the cold, cruel facts have shown that despite such captures in the past the enemy has been resupplied and the war has not stopped.

Several Senators addressed the Chair.

Mr. BAYH. I yield to the Senator from Idaho. If the Senator will permit me, I do not want to cut off this colloquy. I will be happy to continue it, but I thought it appropriate to yield to the floor manager of the bill.

Mr. CHURCH. Mr. President, I commend the Senator on his very able address.

In regard to the war's extension, is it not true that since the borders of Cambodia were breached, a number of events have occurred, suggesting that the war is being broadened, and, indeed, could be lengthened?

Mr. BAYH. Mr. President, I think this would be a good time to place in the RECORD a statement from the Washington Post on June 7, 1970, entitled "Broad Red Offensive," written by Robert G. Kaiser. I am sure the Senator from Florida, as well as other Senators, will be interested in it. I ask unanimous consent that it be printed in the RECORD at this point.

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

BROAD RED OFFENSIVE
(By Robert G. Kaiser)

PHNOM PENH, June 6.—This morning's Vietcong attack on Siem Reap, near the historic temples of Angkor, is the most striking symbol of a worsening military situation in Cambodia.

Siem Reap in northwestern Cambodia is more than 200 miles from the Vietcong's old sanctuaries along the Vietnamese border. It is a strange target for the Communists unless they have serious plans to open a broad Cambodian offensive.

According to a number of observers here, such an offensive may be just what the Communists are planning. Several of Phnom Penh's most experienced diplomats and military attaches now share the opinion that Hanoi may have shifted its strategy in the

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last three months, making Cambodia its primary target in Indochina.

Even the Americans, who speak more optimistically about the military situation and the strength of the Lon Nol government than any other Western diplomats here, are concerned by the possibility of a new Communist strategy.

[Gunfire broke out here for nearly an hour tonight, UPI reported. Flares illuminated the sky as bursts of shots were heard in the vicinity of the rail yards. No explanation was given.]

"The big mystery," an American diplomat said, "is why they (the Vietcong) are going so far west."

These diplomats and observers here do not expect Cambodia to disappear suddenly down the Indochinese drain. The consensus is that whatever happens will happen at a deliberate, Southeast Asian pace.

There is also general agreement that the Communists have big problems to solve before they can effectively conduct a political and military offensive in Cambodia.

But almost the only optimists in Phnom Penh are the Cambodians themselves, who seem to live in a very private world. "They're a self-confident people, alas," sighed one Westerner who makes his living trying to follow their affairs.

A popular theory here is that the Vietcong may launch some military action just before or just after June 30, to try to force President Nixon either to keep American forces in this country beyond his deadline, or to bring them back in right after it passes.

From Phnom Penh, Mr. Nixon's current position looks very difficult. "Why was President Nixon's speech (on June 3) so optimistic?" one diplomat asked. This experienced official doubted whether Hanoi would let the United States walk out of Indochina.

The "salvation government" of Lon Nol reveals only self-confidence to the outside world. It claims to be following a foreign policy of neutrality. This must be the only neutral country in the world whose government-run newspaper can print a front-page cartoon in which Richard Nixon is depicted as an angel, as he was in Friday's "Courrier Phnompenhols."

In fact, the Cambodians find themselves utterly dependent on the United States, South Vietnam and probably Thailand. They are talking of recognizing Chiang Kai-Shek, and have sent a delegation to Seoul. They are counting heavily on President Nixon, whose political problems they apparently don't understand.

"They think Nixon is another Sihanouk," one diplomat said. "If he says yes, then everything is yes."

A Frenchman long in Phnom Penh said Sihanouk himself encouraged people here to count on large American aid. This source said the Cambodians looked to Laos—a country of only two million that has received millions of American dollars—as a model for what they would expect from Washington.

By almost all accounts, the government is woefully weak and not getting any stronger.

An American diplomat said of Lon Nol and his colleagues, "I think they're doing pretty well." But others who have been in Phnom Penh much longer take a different view. "They will exist as long as someone from outside will support them," said one. The government has developed no civil or military plans since taking office, another old hand said.

And yet there has been no challenge to Lon Nol that observers here think is significant. "There is no other group capable of mounting a government," said one diplomat—except Sihanouk. And there is no

evidence here that Sihanouk's unpopularity has lessened since the coup, at least in Phnom Penh.

In fact, those who seem most pessimistic about this current government are often the most insistent that Sihanouk has lost whatever claim he ever had on Cambodian allegiance and affection.

But the government's strength is apparently not an indicator of wide popularity. Lon Nol is not a charismatic figure—that comment is made so often here it is now a stock joke.

The consequences of the government's policies—a war on Cambodian soil, the presence of thousands of unpopular South Vietnamese, etc.—are certainly unpopular.

While the Cambodian government moves gingerly, if at all, the Vietcong are moving boldly (or desparately) virtually all over the country.

They have attacked 10 of Cambodia's 19 province capitals since the coup. Two and perhaps three of them were reportedly the scenes of active fighting today. Most of these 10 were in eastern Cambodia, but the Communists have fought major engagements on all four sides of Phnom Penh.

They control most of northeastern Cambodia, and appear now to be seeking control of a kind over the whole northern half of the country. They have also been active in the south, along the Gulf of Siam, but apparent decision to disperse South Vietnamese troops in that area have either forced them out or compelled them to lie low.

As one diplomat here noted, the Communists' apparent decision to disperse all over the country can be interpreted either as a defensive or an offensive maneuver. Either way it can be effective, if the Vietcong and North Vietnamese troops can get the supplies and food they need.

Whether they can is one of the two most puzzling questions in Cambodia at the moment. There are credible reports here that the Communists began moving supplies out of their old sanctuaries in March or April at the latest, long before U.S. and South Vietnamese forces attacked the sanctuaries.

There are also unconfirmed reports that the new Communist supply line down the Sekong and Mekong Rivers is already in use. Whether these means or some other will provide what the Communist need is, simply, a mystery.

The fact that pessimism is the dominant mood here reveals the common assumption that the Vietcong will get supplies. They have already had some success capturing Cambodian supplies from provincial depots and warehouses.

The second great mystery is how the Communist will proceed through this next stage of the Indochina war. If they have not made Cambodia their number one target, what are they up to in Cambodia now? Vice President Ky said today he thought they were merely beating a disorderly retreat.

If the Communists have more deliberate intentions here, how will they pursue them? It is widely assumed in Phnom Penh that the Vietcong missed their best opportunity to seize this capital in April.

But perhaps, one diplomat suggested, they will ignore Phnom Penh, and try for domination of the entire countryside, following the dicta of guerrilla doctrine.

There is very little evidence to help solve this mystery. One source who knows Cambodia well says that in almost all areas of the country, the Vietcong have stopped pretending to be agents of Sihanouk, whom they have found to be unpopular.

The Vietcong have written off the local Cambodian Communists, the Khmer Rouge, who are trying to build their organization around little-known local leaders. There is no reason to think it will be easy to build an indigenous revolutionary movement among the apolitical, easy-going Cambodians.

But some observers here think the Communists will have certain advantages in the future, including popular hostility for South Vietnamese troops—who have apparently misbehaved in Cambodia—and anger toward the government that brought the country war, uncertainty, and what is likely soon to be a bad economic situation.

Meanwhile, if they can get the supplies they need, the Communists can maintain a large, dispersed military force in Cambodia. "They can take any city in the country any time they like," one old resident of Phnom Penh said. Military men here generally accept that judgement.

In recent weeks, the Lon Nol government's biggest short-term asset has been the South Vietnamese army—which many here believe will turn out to be a long-term liability. There is no question that South Vietnam forces in Cambodia have seriously disrupted the Communists, thus relieving much of the pressure on Cambodian forces.

But in the process, the South Vietnam soldiers have apparently ravaged parts of the countryside, looting, shooting indiscriminately and sometimes raping women. Their wayward ways are common gossip in Phnom Penh—as they are in Saigon. Public feeling against the South Vietnamese is strong here and, it is presumed, in the countryside too.

The South Vietnamese and Cambodian leaders seem to be natural allies—they need each other. The question asked often here is whether ordinary people of both countries can overcome natural hostility for the sake of a cause many of them know nothing about.

In the meantime, the Americans in Phnom Penh are the most up-beat Westerners in town. In three days of hearing people describe the Lon Nol government as utterly dependent on foreign help, one U.S. Army man said, "These people have the capability of pulling themselves out of this danger without any help from anybody else."

He described one of the leading Cambodian generals as an "exceptionally well-educated officer," and a good fighter. Another source who has lived here for more than a dozen years described the same general differently: "He's a clown. He dances well."

Mr. CHURCH. There is a stubborn inclination by certain observers to look at the Cambodian operation in the most limited possible frame—we have struck at certain border sanctuaries, and that we will withdraw from Cambodia within the time limitation set by the President.

I assume this to be the case. However, that is not the full picture of the Cambodian situation. Since the operation commenced, the situation in that part of Southeast Asia has become very complex.

The President, at a press conference on May 8, in response to a question, said he anticipated that the South Vietnamese would come out of Cambodia when we came out. He based this assumption on the fact that we furnished them with their logistics and their supplies.

Several days later, Vice President Ky, responding to a question relating to coming out of Cambodia, replied that that was a silly argument of silly people, apparently his reference being the President and the Vice President of the United States.

Since then, we have learned that South Vietnam is not coming out when we come out. Since then, the administration's policy has shifted. The administration now says that while we are coming out, we will continue to support the South

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Vietnamese in the decisions that they make with reference to staying.

This is a significant development. It extends beyond the narrow framework imposed upon the American operations in Cambodia.

Furthermore, we are now told that Thai troops—who were not in Cambodia prior to this operation—are going to Cambodia. We do not know, as yet, how many. Their purpose is to join in the new front in Cambodia, presumably to support the Lon Nol regime. I consider this especially when we remember that we have treaty obligations to Thailand, is a very significant development. It relates directly to the broadening of the war.

These, plus the Nixon doctrine, could involve the United States, in many ways, in the defense of Cambodia, unless the Church-Cooper amendment becomes a part of the law.

The Senator from Indiana has plenty of evidence already presented in the course of the few short weeks that have elapsed since the Cambodia borders were breached to suggest that indeed the war has been complicated, widened, and perhaps lengthened.

I commend the Senator for having made so forceful an argument on this floor today.

Mr. BAYH. I thank the Senator from Idaho for his observations. I might pose just one question, inasmuch as the Senator has been a distinguished member of the Committee on Foreign Relations.

The Senator pointed out that Thai troops were being sent in and Cambodian forces were being armed. From what source do these troops get their sustenance?

Mr. CHURCH. The Thai armed forces are being financed by the United States. Our generosity is hardly a secret.

Under similar attitudes and circumstances, Cambodian forces could also receive generous financing, as well as weapons, ammunition, equipment and supplies that they need to conduct their battle operations.

Alas, the government holding the moneybags, the financier of military operations in Cambodia by all friendly parties will, undoubtedly, be the United States.

Mr. BAYH. I thank the Senator from Idaho.

I ask unanimous consent to have printed in the RECORD at this point an article published in the Washington Post on June 8, 1970, written by the distinguished columnist Chalmers Roberts. Significantly enough, the title of this article is "Thai Troops Cost the United States \$200 million."

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

THAI TROOPS COST THE UNITED STATES \$200 MILLION

(By Chalmers M. Roberts)

The United States has paid more than \$200 million to Thailand for the support of its forces now in South Vietnam, according to Senate hearings released on American involvement in Thailand.

The extensively censored transcript of closed-door Senate Foreign Relations Committee hearings held last Nov. 11-17 was made public by Sen. Stuart Symington (D-

Mo.), the subcommittee chairman. He also released a letter asking Secretary of State William P. Rogers for details of the American role in last week's announcement by Thailand that it will send "volunteers" to Cambodia.

Symington asked Rogers for details on when negotiations on the "volunteers" began, what the United States is to provide, what it will cost, the Thai role in supporting the Cambodian regime of Lon Nol and which country can bring about withdrawal of Thai units from Cambodia.

Both the hearing and the letter are part of the effort by senators opposed to the Indochina war to force full disclosure of what the United States has been and is doing. The senators hope to increase pressure on President Nixon to end the conflict.

Despite more than 3,000 pages of transcript, the hearings, as censored, produced only a few nuggets of new information. Much of the hearings consisted of repetitious rival contentions between the senators, especially Symington and Sen. J. William Fulbright (D-Ark.), on the one hand, and the administration on the other about the nature of the American commitment to Thailand. Symington repeatedly castigated administration witnesses for excessive executive branch secrecy on matters he contended the Congress and the public had a right to know.

The \$200 million figure was supplied by the administration. A submitted statement said American "support to Thai forces" had averaged about \$50 million a year, or \$200 million since their arrival in South Vietnam in 1966.

Fulbright put into the record a table showing that a Thai lieutenant general received \$370 a month base pay, paid by Thailand, plus \$450 a month in overseas allowance, paid by the United States. The scale ran down to a private whose base pay was \$26 a month from his own country plus \$39 a month from the United States.

In addition, the United States pays \$2,500 for death and disability benefits for Thai enlisted men, \$3,500 for noncommissioned officers and \$5,500 for officers. A mustering out bonus, also paid by the United States, is \$400 per volunteer. While in South Vietnam, the United States also pays for quarters, rations, transport and ammunition for the Thais. About 11,000 Thai troops are now there.

American Ambassador to Thailand Leonard Unger provided figures showing that in the period 1949-69 the United States had given Thailand \$2,190,900,000 in all forms of economic and military assistance and for military expenditures. He also estimated that the American contribution of all sorts to the Thai economy was about \$200 million a year in 1967 and 1968 and about \$170 million in 1969.

Graham Martin, now Ambassador to Italy and former Ambassador to Thailand, said at one point that he thought the Thais had sent the troops to Vietnam "because they were requested to by the government of Vietnam and by the United States. I think they made that decision in the full realization that it was increasingly uncomfortable for the United States to have the massive deployment of U.S. troops with far less contingents from the other partners in the SEATO alliance."

The nature of the Southeast Asia Treaty Organization (SEATO) commitment by the United States, and how it was affected by the Rusk-Thanat statement, was much argued over during the hearings by the new agreement between senators and administration witnesses.

The Rusk-Thanat statement of March 6, 1962, signed by then Secretary of State Dean Rusk and Thai Foreign Minister Thanat Khoman, was defended by Unger as not "in any sense altering or extending our commitment under SEATO." The statement, in

State's view, simply made clear that the United States could come to Thailand's aid on its own initiative without the agreement of all the SEATO nations.

Fulbright, however, contended that the statement had created "a bilateral agreement" and had done so "without reference to Congress." But the most the administration witnesses would concede was that the statement had been an added assurance to Thailand at a moment of peril.

The peak of American military manpower, chiefly Air Force, in Thailand was 48,000, with 42,000 the ceiling for June of this year, a Pentagon statement said. Included are 290 men in the Special Forces.

Despite suspicions raised by senators and by subcommittee counsel Roland A. Paul that the Special Forces might have some role other than training, administration military and diplomatic officials denied it.

The issue of the Thai-American contingency plan, as the administration calls it, also figured in the transcript. Fulbright brought out that it was updated last August but he never got what he considered a satisfactory explanation as to how the two governments "agreed" to do so.

Symington indicated he considers the contingency plan issue, first made public last year, as moot after Secretary of Defense Melvin R. Laird publicly repudiated its applicability.

When Fulbright demanded of Unger his "authority" for the Nov. 19, 1967, agreement "in which you apparently committed our country to equip and supply the Thai forces in South Vietnam," the ambassador cited "instructions from the Department of State" based on the SEATO treaty.

An administration supplied "summary" of that secret agreement said that because the Thais "were concerned that the dispatch of this force could weaken their security position at home," the United States had agreed to provide an additional \$30 million in aid to modernize the Thai forces, including provision of a battery of Hawk anti-aircraft missiles. The rest of the administration document was deleted from the transcript.

Much of the hearing related to Laos, the subject of another subcommittee hearings the transcript of which already has been released.

At one point it was disclosed that American planes in 1968 flew 67,000 sorties over Laos but the 1969 figure was censored. This sortie figure covered raids both on Northern Laos, in support of the Royal Government of Souvanna Phouma, and against the North Vietnamese on the Ho Chi Minh trail.

Walter Pincus, the subcommittee's chief consultant, read newsmen sortie figures for raids in North Laos alone, increasing for 20 in the year 1964 to 32 per day by September, 1968, to "over 100" per day in 1969.

Maj. Gen. Robert L. Petit, deputy commander of an Air Force unit at Udorn, one of the American bases in Thailand, testified that American Ambassador to Laos G. McMurtre Godley "maintains a very tight control" over the sorties "going into North Laos."

All references to reports that Thai troops have been serving in Laos were deleted except for a newspaper report that 5,000 had been sent "disguised in the uniform of the Royal Laotian Army."

The hearings produced much wrangling about the American "interest" in Thailand and the nature of the Chinese and North Vietnamese threat but no agreement between the senators and the administration witnesses. About the only favorable senatorial comment came from Sen. Jacob K. Javits (R-N.Y.). He called Thailand "a bastion of the kind of order and stability and justice that we are trying so hard to attain."

Early in the hearings witnesses refused to discuss American post-Vietnam planning for Thailand but later on it was described as

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"merely proposals" without any decisions having been made. Witnesses refused to disclose any of the proposals although the committee implied the United States really intends to keep bases and forces in Thailand indefinitely.

The committee also made much of American payments to the Thai-run Express Transport Organization, with documentation to show that handling of American cargo had produced what the committee concluded was a profit of 35 to 40 per cent based on expenditures.

Mr. BAYH. Mr. President, I should like to repeat, since the Senator from Idaho is here now and had been called off the floor for other duties as I began my remarks, the reference to Secretary of State Rogers' statement to the House Appropriations Committee about not getting involved in Cambodia.

It is my understanding that he shortly thereafter testified before the committee of the Senator from Idaho, the Senate Committee on Foreign Relations, to the same effect. But I think it is interesting to note what the Secretary of State said to the House committee, and I suggest to my distinguished colleague from Florida that I would think that the Secretary would speak for the President of the United States on matters such as this. He said:

We have no incentive to escalate—

This was 7 days before the Cambodian invasion—

Our whole incentive is to deescalate. We recognize that if we escalate and get involved in Cambodia with ground troops, that our whole Vietnamization program is defeated.

It seems to me that perhaps by this statement the Secretary of State has answered the very pertinent question raised earlier by the Senator from Florida.

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

Mr. BAYH. I am happy to yield.

Mr. GURNEY. Commenting on that specific point—and I hope we can get back to expanding on the other point, because that is what we had been discussing, but this point was raised earlier, and it is certainly fair to talk about it—of course, the word "escalation" means one thing to one Senator, and another thing to another Senator. To me, the word "escalation" means broadening the war, stepping up the war, further involving the United States of America, prolonging the war, sending more troops in, doing more of a whole lot of things.

The word "deescalation" means taking those steps, particularly those tactical steps, in Southeast Asia, which may very well lead to a shortening of the war, if it hurts the enemy and seriously sets him back, and of course that is what this debate during the last several weeks has been all about. I am well aware that some Senators have one viewpoint, and other Senators have another.

Speaking to the words of the Secretary of State, in the sense of this Senator, deescalation, in the light of the Cambodian incidents, means that when the President, the Commander in Chief, has taken a tactical step that has wiped out Communist sanctuaries, that has destroyed supplies, that has weakened the enemy's ability to wage war, this is indeed an escalation.

I realize that we have differences of viewpoint on that.

Mr. BAYH. We can describe "escalation" and "deescalation" in different terms, but it seems to me that we have to interpret it the way the Secretary of State described it. Although we might differ as to what "escalation" and "deescalation" mean, can we really say that there is much dispute about what he meant when he said that if we escalate and get involved in Cambodia with ground troops, our whole program is defeated?

Mr. GURNEY. I think that what the Secretary was talking about is that if we went permanently into Cambodia—

Mr. BAYH. He did not say that.

Mr. GURNEY (continuing). Supported the present Government of Cambodia, and shored it up and kept troops in there permanently, that, indeed, would be an escalation and a broadening of the war. Obviously, he did not mean that.

As a matter of fact, the Secretary of State spoke very eloquently on one of the television programs—I believe it was "Face the Nation," on CBS last Sunday—and answered a great many of the questions posed by the Senator from Indiana.

But to get back to prolonging the war—

Mr. BAYH. Before the Senator proceeds, let me suggest that I was not fortunate enough to hear what the Secretary of State had to say after the invasion. But I am insistent that we recognize what he said before the invasion. I think it is interesting to compare what he said then with what happened just 1 week later. It seems to me that there is a bit of inconsistency there. But the Senator from Florida and I can disagree and still pursue this colloquy.

Mr. GURNEY. We can. But, to get back to the prolonging of the war—because I think it is a most important point—I think there is a great deal of evidence on that subject, that the Cambodian incursion, with the destruction of the supplies that has resulted from this military operation, has indeed not prolonged the war in any sense, but, if anything, has shortened the war.

I cite, for example, an authority on Southeast Asia—perhaps an authority who is second to none—on how these people fight over there, their method of military operations, and that is Sir Robert Thompson, a Britisher, who masterminded the defense of Malaysia against communism and was successful in defeating communism there and rescuing Malaysia from falling into the hands of the Communists. He has said, for example, that the Communists have been set back anywhere from nine months to a year by this operation into Cambodia. The enemy has been hurt previously, and because he has, our program of Vietnamization and our ability to withdraw our troops has been enhanced.

To me, that represents not only a very authoritative opinion but also an opinion of a great many people who follow the war in Southeast Asia.

This is why I was interested in pursuing the talk about prolonging the war.

Mr. BAYH. I explained that in my remarks earlier. I would be glad to re-

iterate what I said, hoping that the Senator from Indiana is wrong and the Senator from Florida is right and that the President of the United States is right. The one thing which we have in common is that we want to end that war.

Mr. GURNEY. I agree.

Mr. BAYH. The question is how we can best accomplish this purpose. It seems to me that we have to recognize some very hard facts. Analyzing the South Vietnam conflict is not easy.

The facts of the matter are, as I see them—and if the Senator from Florida has other facts, I shall be more than happy to hear them—that prior to the Cambodian invasion there were no South Vietnamese troops in Cambodia; prior to the Cambodian invasion, there were no Thai troops in Cambodia; prior to the Cambodian invasion, there were no U.S. troops in Cambodia. Now there are Thai, South Vietnamese, and American troops in Cambodia.

On the other hand, we have a joint statement of "all for one and one for all" from the Pathet Lao, from Sihanouk, from the Vietcong—everybody involved, backed by China.

If that does not mean an escalation, if it does not mean we are going to have to get a broader settlement, involving more territory and more nations, then the Senator from Indiana is misinterpreting these events. But I do not think so.

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

Mr. BAYH. I yield.

Mr. GURNEY. It seems to me that the confusion arises from the terms "broadening" and "prolonging."

I might say to the Senator from Indiana that I suppose the invasion of Sicily and Italy during World War II and the invasion of France on the beaches of Normandy was a broadening of the war. I suppose it was. It also was the shortening of the war, in that these attacks led to the final defeat of Germany. The terms are quite confusing.

Mr. BAYH. Does the Senator suggest that those areas, from the standpoint of involvement and occupation by an enemy force, are analogous?

Mr. GURNEY. Was not Cambodia occupied by the North Vietnamese and the Vietcong?

Mr. BAYH. I am not arguing the complexity of the Southeast Asia situation; but for the Senator from Florida to suggest that there is a comparison between the two, is difficult for the Senator from Indiana to comprehend.

Mr. GURNEY. Does the Senator from Indiana suggest that the Communist sanctuaries in Cambodia were not occupied by North Vietnamese and Vietcong troops—the enemy?

Mr. BAYH. They were occupied—there is no question about that. They were occupied on the date that the Secretary of State said that to escalate and to go into Cambodia would ruin the Vietnamization program.

Mr. GURNEY. The parallel is exact between that and Italy and France.

Let us turn to another question.

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

Mr. BAYH. I yield to the Senator from Idaho.

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Mr. CHURCH. The comparison of the Vietnamese war with the Second World War goes so far beyond the facts of the current situation that it should not go unchallenged.

The Second World War was an unlimited war; our stated objective was the unconditional surrender of the enemy. It was a war declared by Congress. It differed in character and in all its particulars from the present war, including the fact that the continuing conflict in Indochina is an undeclared war.

President Nixon has said repeatedly, as have his predecessors, President Johnson and President Kennedy, that this was a limited war for limited objectives. If it were not so, I am certain that long ago we would have invaded, occupied, and conquered all of Southeast Asia. That has not been our purpose. That was not the reason why we went there. All these Presidents have reiterated that this is a limited engagement.

To make these rash analogies between our situation in Southeast Asia today and our situation in the Second World War, such as when we went into Italy, seems to me to fly in the face of everything we know about our involvement in Southeast Asia and the declared, unlimited war for unconditional surrender that we fought in the days of the Second World War.

The essential purpose of the Church-Cooper amendment is to assume legislative responsibility in defining the theater of this limited war. That is its whole purpose. It seems to us that after so many years of inconclusive fighting, the time has come for Congress to assume responsibility in joining with the President in setting the outer limits of American involvement in Southeast Asia. In the Cooper-Church amendment, we are setting those limits precisely where the President has set them.

Mr. BAYH. In essence.

Mr. CHURCH. Yes; we have said, "If you are going to go beyond those limits in this limited war, then come back to Congress and let Congress share, as the Constitution intended, in any decision which opens up or expands the theater of American involvement." I reject the analogies based upon our experience in the Second World War.

Mr. BAYH. The Senator from Idaho knows well, and the whole country knows well, the nature of the guerrilla war in Southeast Asia. This was not involved in Western Europe in World War II. So that I think the comparison falls on its face.

Before returning to the discussion with the distinguished Senator from Florida, I want to emphasize that what this amendment does is not slap the President in the face but indicates a willingness and desire on the part of Congress to accept some of the responsibility. It gives the President an easier "out," to keep it from being just his war, and thus, hopefully to join him in ending the war.

Mr. CHURCH. The Senator is eminently correct. It seems to me that if we are going to come out of this morass in Southeast Asia, we must find a way to

come out of it together. Otherwise, the frightful political recriminations, about which the President worries, will become reality. All of us will face them because there will not be a pleasant, popular ending to this war. Everyone knows that. We are presently withdrawing, which is the President's policy. This ending will not be the kind the American people have been accustomed to. There is, already, danger that serious political recriminations could devastate and divide our own country.

Looking ahead, I think that the best course for the country is for Congress to begin—now—to share a joint responsibility with the President for extricating the United States from this interminable and inconclusive war in Southeast Asia.

The Cooper-Church amendment is a first step in that direction. It assumes a legislative responsibility to define the outer limits of the American penetration into Cambodia, the exact place where the President himself has stated it. Thus, it is an offer to the President to join him in an orderly extrication of this country from the quicksands on the Southeast Asian mainland.

The persistence by some in attempting to construe the amendment as something else baffles me. The attempt to characterize our amendments as some kind of slap at the President of the United States is patently absurd.

The distinguished Republicans who have joined in supporting the amendment, such outstanding, acknowledged statesmen as JOHN SHERMAN COOPER, of Kentucky; GEORGE AIKEN, of Vermont; JACOB JAVITS, of New York; and many others, would have no part of any legislative attempt if its purpose was to embarrass or discredit the President. To insist upon interpreting the amendment in this fashion, is not only unfortunate, but utterly unsupportable.

Mr. BAYH. I appreciate the Senator's clarification, and salute him for his initiative in this area.

Now I am happy to yield to the Senator from Florida.

Mr. GURNEY. I thank the Senator.

I should like to go back and discuss a little bit the remarks just made by the distinguished Senator from Idaho. He feels deeply about this matter, as do all of us. So, to pooh-pooh the idea that there is any analogy between one war and another, I think, if he went over to South Vietnam or even to Cambodia right now and talked to the GI's over there and tried to reassure them that they were fighting a small war, not a big conflict like the Second World War was, that our objectives and aims are different now, and all the other arguments we have just heard, I think the reaction of the GI's might be, "The shot and shell are flying thick at me, just as they did in World War II. All the other things that are happening here happened in World War II."

One war is like another so far as the young men are concerned whose lives are being laid out on the line. So that I believe we should do the things that will not prolong the war but will shorten it.

An interesting thing on that score, I am sure that other Senators have had the same experience I have had, concerning letters written to me personally from Vietnam in recent days and also sent to me by parents who have received letters from their boys in Vietnam and Cambodia in recent days. The letters say, "Dear Senator" or to the parent, as the case may be, "Thank heaven, we have finally done something which will hit the enemy and hurt the enemy and shorten the war."

That is what they say, the soldiers in the field.

Now let us turn to another point the Senator from Indiana mentioned in his remarks, that I think is important, too.

He spoke about the political price that was being paid here at home. I guess part of the point was that there is so much uproar here at home that the President and the administration is losing the backing it had, or may have had, as far as Vietnam policy is concerned.

I think it is interesting to note the polls which have been made since President Nixon moved troops into Cambodia. One is from Newsweek and supports the President in the Cambodian action by a rather substantial majority. The most recent poll is even more interesting, and that is the Gallup Poll which was made just a few days ago, and shows actually that during the time the President sent troops into Cambodia, his popularity as President has risen.

I do not know what political price the Senator from Indiana is talking about but if he is talking about the administration's political price apparently the country backs up the President and backs up his Vietnam policy, and not only approves of what he is doing but also the popularity of the President has increased.

Perhaps the Senator could go into the political price he is talking about a little more.

Mr. BAYH. I must say, with all respect to my friend from Florida, that is a very poor reason, indeed, to invade Cambodia—in order to improve the President's standing in a Gallup poll.

Mr. GURNEY. Of course, the Senator from Indiana knows that is not why I made that argument at all—

Mr. BAYH. What the Senator from Indiana said—I will answer the question—what the Senator from Indiana said had nothing to do with popularity on the political scale. If anyone here is the least observant, and certainly my friend from Florida is most observant, any of us would have to come to the assessment that there is considerably more turmoil, agitation, confusion, and frustration in the country today, at almost any level, than there was before the Cambodian invasion. Just take a good look at the stock market. Read what the experts say this did to the confidence of the business community.

Mr. GURNEY. I thought the stock market was going up. Has not the Senator from Indiana read the stock market reports lately?

Mr. BAYH. I have no money, so I cannot be investing in the stock market.

Mr. GURNEY. The stock market is

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going up, in case the Senator did not know.

Mr. BAYH. Well, if the Senator would read some of the statements coming from eminent, qualified members of the business community, they would give him an idea of the tremendous shock and jolt the invasion of Cambodia gave to the business community.

Mr. GURNEY. The business community is backing up the President. The poll made by the Research Institute of America shows that 80 percent of the business community is behind the President.

Mr. BAYH. It seems to me that the best poll, as far as support from the business community is concerned, if the Senator from Florida has to have some sort of poll—

Mr. GURNEY. I do not need a poll. You do.

Mr. BAYH. The Senator is the one who brought it up. If the Senator has to have some poll, I have had more businessmen suggest that the best barometer of the attitude of the business community is to see which way the stock market is going. If we compare where it is today and where it was before Cambodia—I think that answers the—

Mr. GURNEY. The stock market has been going down for month after month because it was too high. But let us turn to something else, the question of turmoil. The Senator mentioned Kent State as an example of the great turmoil now going on in the country. The Senator from Indiana should read the report of the Senate Internal Security Committee that warned the Senate 2 years ago of all kinds of trouble brewing at Kent State, and that was long before Cambodia.

Mr. BAYH. Now, does the Senator from Florida—I want to make sure we have all the facts on the record here—does the Senator believe that the unfortunate incident at Kent State was directly the result of the factors contained in the report to which he referred?

Mr. GURNEY. Mr. President, what I am saying is that trouble was brewing on the campus of Kent State University for 2 long years.

Mr. BAYH. Mr. President, is the answer to the question I posed to the Senator from Florida "Yes"? I want to make sure we get that into the Record.

Mr. GURNEY. What was the question?

Mr. BAYH. Mr. President, I would like to know if the Senator from Florida believes that the confrontation which occurred at Kent State University—a most unfortunate incident—was directly related solely to the conditions described in the report of the Internal Security Committee which was mentioned earlier by the Senator from Florida.

Mr. GURNEY. Mr. President, it certainly is due in part to the conditions revealed by the Senate Internal Security Subcommittee.

I also point out that trouble and turmoil has been going on on the Kent State campus for months and months. It has been a continual process, as it has been on many other college and university campuses throughout the country.

The point I am trying to make is that the trouble and turmoil on the campuses has been going on for a long time.

The trouble that was caused on the campuses by Cambodia is only one part of the whole campus picture.

The point that the Senator from Indiana was trying to make, it appeared to me, was that the trouble at Kent State University and all other campuses is the fault of the President of the United States because of the Cambodian incursion. And I do not think that is true.

Mr. BAYH. Mr. President, I will send to the periodical room for a copy of yesterday's Washington Post, which contains an article describing how the President had sent five of his young assistants to the various college and university campuses throughout the country.

I do not know whether the President sent anyone to the campus of Kent State University. We have had these investigations up one side and down the other.

These young men, members of the President's party, went all over the country. They came back with dramatic expressions of concern, saying that they themselves, as young men, were surprised to find the tremendous alarm that existed all over this country.

I do not for a moment want the Record to show, or my friend, the Senator from Florida, to get the idea, or anyone else that might read the Record, to get the idea that the Senator from Indiana believes that violent dissent because of the Vietnam war has any place on the campus or any place else.

I think when they get to the place of burning down banks, destroying institutions of higher learning, and doing physical damage to other citizens that this matter has gone beyond the point of legitimate dissent.

It has gone to the point addressed by former Justice Holmes long ago when he said, "The first amendment does not give anybody the right to cry 'Fire' in a crowded theater."

It has been my belief over the past few weeks that most of the dissent and the deep concern that has been expressed has been in a nonviolent way. It has been expressed not just by students, but also by mothers and fathers, by automobile workers and by steel workers.

My mail has increased astronomically. And all of this mail is not from students.

Mr. GURNEY. Mr. President, is the Senator speaking of the hard-hat demonstrations in New York a couple of weeks ago? Is that one of the examples the Senator is referring to?

Mr. BAYH. I must say that when a fellow, whether he is wearing a hard hat or not, tells me he is against obscenity, four-letter words, desecrating the flag, and burning down bank buildings, I say: "me too." And I do not think that has anything to do with the war in Vietnam or with the stock market.

Mr. GURNEY. Mr. President, I think they were backing the President's efforts in Vietnam.

Mr. BAYH. Mr. President, I think the President will have a rude awakening if he feels that the fathers and mothers of these boys and girls are not deeply concerned over this war in Vietnam. This is a matter that transcends occupational lines. It should transcend class lines.

Mr. GURNEY. Mr. President, I agree whole heartedly with the Senator. But

people all over the country are concerned over the disturbances going on on the college campuses, if that is the point the Senator was making.

Mr. BAYH. That was not the point I was making.

Mr. GURNEY. Mr. President, all I am saying is that there are many other fundamental factors involved in the campus dissent than Cambodia.

I pointed out two of the most notable examples of campus dissent. One was on the campus of Columbia University. I feel that the disturbances really began in the East. This was about 2 years ago.

One involved a piece of property which Columbia University was contemplating building on in the ghetto area. That was what that was all about.

I recall the disturbance at Cornell University when certain students came out of the administration building with guns and rifles in their hands.

I do not feel that those incidents had anything to do with Cambodia.

I agree that we do have much turmoil on college campuses. But I feel that this trouble and turmoil started long before the Cambodian incursion.

Mr. BAYH. Mr. President, before the Senator leaves this subject, I will just read into the Record part of this article to which I have referred.

Mr. GURNEY. I remember reading the article.

Mr. BAYH. Mr. President, since the Senator from Florida has read the article, I will not bother to take up the time to read the article now.

Mr. President, I ask unanimous consent that the article entitled "Young Aides Tell Nixon of Youth Unrest," written by Carroll Kilpatrick, and published in the Washington Post of June 9, 1970, be printed in the Record.

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

YOUNG AIDES TELL NIXON OF YOUTH UNREST

(By Carroll Kilpatrick)

Eight youthful White House staff members reported to President Nixon yesterday that the Cambodian operation seriously damaged his support on the campuses and drove many moderate students into the arms of radicals.

The President met for more than an hour with eight White House staff members he dispatched last month to sample opinion on some 30 university campuses.

Chancellor Alexander Heard of Vanderbilt University, the President's temporary adviser on campus activities and thinking, was present for the meeting in the cabinet room.

The eight staff members, all under 30, were described as shocked by what they discovered on the campuses. They reportedly told the President that the extreme opposition to the Cambodian operation and the Vietnam war was not a fringe phenomenon but a widespread condition in the universities.

The staff members' reports generally bore out what others previously have found about the extent of student and faculty opposition to the administration's Southeast Asian policies.

The eight reported their findings earlier to senior staff members at the White House and in writing. The President invited them to give an oral report to him yesterday.

He now fully recognizes the extent of the campus opposition to him and his policies and is "very sensitive" to the problem, one informant said.

Hugh Sloan, 29, who visited Princeton, Columbia, Rutgers, Connecticut College, the Coast Guard Academy and New York University, said after visiting Columbia that "the depth of feeling is considerably stronger than I personally imagined."

He met at Low Library on the Columbia campus last month with a series of student and faculty groups. Prof. Charles Frankel of the philosophy department, a former assistant secretary of state for cultural affairs, said after meeting Sloan that the Cambodian operation was a blow to moderates on campus.

Students "felt betrayed," Frankel said at the time. Dean Carl Hovde of Columbia college, who also met with Sloan, told reporters that "patience has snapped over the (war) issue."

White House press secretary Ronald L. Ziegler said the eight staff members spent three or four days each visiting different campuses. Ziegler discounted one report that the eight were stunned by the opposition sentiment they encountered.

Other officials said it was true the eight had been shocked by the extent to which conservative and moderate students had turned against the administration because of Cambodia.

Ziegler said the staff members "talked to students, administrators and faculty to get their views—primarily to assess their feelings for the specific purpose of communicating their views to the President."

The staff members reported that a major target of campus criticism was Vice President Agnew.

The White House aides who made the survey for Mr. Nixon were, in addition to Sloan: John L. Campbell, 26, he visited Duke, North Carolina Central College and the University of North Carolina.

William Casselman, 28, visited Claremont College and the University of California at San Diego.

Christopher DeMuth, 23, Harvard, University of Massachusetts, Boston College, and Northeastern University.

Jeffrey Donfeld, 26, University of California at Berkeley, University of Texas and the Los Angeles Valley Junior College.

Chester F. Flinn, 25, Reed College, University of Washington and Montana State University.

Lee Huebner, 29, Northwestern, Ohio State and Bowling Green College in Ohio.

Don Murdock, 28, University of Wisconsin, Edgewood College in Madison, Wis., and Madison Area Technical and Vocational College.

Mr. BAYH. Mr. President, I must say that the Senator from Florida seemed determined to relate the student unrest over Cambodia and the militant violence on other campuses of 2 years ago.

I thought perhaps the Senator had not read the article.

I think the RECORD should show conclusively that there was deep concern, deep unrest, and deep division in this country as a direct result of the Cambodian invasion. That has nothing to do with politics.

I find myself as a member of the loyal opposition hoping and praying that the President can be successful, knowing that if he is successful, it will be the biggest political thing that he will have going for him.

We cannot ignore the fact that today there is unrest in this country. After a period of 15 or 16 months of planned disengagement—slowly, steadily, and surely—many of us in the opposition party who had gone along with the President on this matter; suddenly find

that the situation has turned around and gone the other way.

This is what shocked the business community. This is what shocked the students. This is what shocked the country. That is why I am concerned. And I think the RECORD should show that.

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

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

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

Mr. BAYH. Mr. President, to let my friend, the Senator from Florida, get his breath, I yield now to the Senator from New York.

Mr. JAVITS. Mr. President, I have some prepared remarks concerning the Byrd amendment which I would like to deal with first. Then I would like to make some remarks concerning the colloquy I have just heard between my distinguished colleagues.

BYRD AMENDMENT BEGS THE QUESTION

The amendment offered by the Senator from West Virginia (Mr. BYRD) only begs the question raised by the Cooper-Church amendment and settles nothing. For the President, according to his own declaration of his reasons for sending U.S. Forces into Cambodia, has already, in the words of the Byrd amendment, taken "such action as may be necessary to protect the lives of U.S. Forces in South Vietnam or to hasten withdrawal of U.S. Forces from South Vietnam."

But, the question now is—and it is raised by the Cooper-Church amendment—whether the Congress can place a limit on the exercise by the President of his power as Commander in Chief by restricting his authority to use appropriations in the support of forces carrying out his orders in Cambodia. This, I feel, the Congress has an absolute right to do. The President may choose not to use an appropriation on these conditions, but if he does use it, he cannot at the same time negate its purpose or its restriction.

What Senator BYRD tries to do is to turn the clock back to the time preceding the Cambodian decision and to disregard the fact of the decision or its implications. I believe the Cooper-Church amendment is not only a proper, but a wise, exercise of the congressional authority. For, the Senate, is dealing in the Cooper-Church amendment with the question of extending the theatre of war beyond Vietnam as a matter of basic policy. The Cooper-Church amendment seeks to restrain the President from using his Commander in Chief authority with respect to the security of our forces in Vietnam beyond the very limited involvement which he himself has specified as essential for that security.

It is proper to state that nothing the Senate can do, including the Cooper-Church amendment, can deprive the President of his Constitutional authority as Commander in Chief. All the Congress is asked to do by the Cooper-Church amendment is to limit broader-scale involvement in Cambodia which would intrude upon the warmaking powers of the Congress itself.

Indeed, the issue of liquidating the Vietnam war is now wholly a question of tactics and timetable. This is true of the Cooper-Church amendment and even of the much broader McGovern-Hatfield-Goodell-Cranston-Hughes amendment. The basic issue with which we still must come to grips is a definition of the war powers of the Congress and, therefore, by implication, of the President under contemporary circumstances. I do not say this in criticism of the Cooper-Church amendment, which strongly favor and in the drafting of which I participated as a member of the Foreign Relations Committee—but rather because it makes no such claim for itself.

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

But, the adoption by the Senate of the Cooper-Church amendment—an important piece in an emerging mosaic—would be a significant historical milestone in asserting this authority of the Congress. Its historic significance may be further enhanced by the President's open endorsement of the Byrd amendment.

Under these circumstances I see the Byrd amendment, in its effect, as an effort to table the Senate's effort to reassert and to define the constitutional responsibilities of the Congress as specified in section 1, article 8, of the Constitution. If the Byrd amendment is adopted, it will set back a vital historic process—the assertion of the responsibilities of the Congress in warmaking. Also it will give new momentum to a phenomenon which has aroused such grave concern in our Nation in recent years—the exercise by the President of the warmaking power in the name of his authority as Commander in Chief. Since the first rumblings of World War II, we have seen this constantly expanding power of the President often due to abdication by the Congress of its warmaking powers. Throughout the past decade, this trend has gained an ominous momentum.

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

I believe that passage of the Byrd amendment would amount to Senate acquiescence in this position—that is, the

President enjoys such powers as Commander in Chief as he defines them to be. I believe that this could undermine our whole constitutional system and lead the Nation into grave new crises at home and abroad.

What is most needed, in my judgment, is a new policy codification of rules to be followed in circumstances where military hostilities must be undertaken in the absence of a declaration of war. There are two categories of such circumstances: First, those on which a declaration of war is not justified or desirable because of the total consequences of a declaration of war; second, when the suddenness of events does not permit the prior enactment of a declaration of war.

In the nuclear age, hostilities are likely to continue to take the form of "limited" and even "clandestine" wars. Such wars require a response adapted to the circumstances and those circumstances do not seem to be adequately encompassed in the 18th century concept of a "declared" war, which is specified in the Constitution.

The Congress has done little or nothing, in my judgment, to adapt its constitutionally specified "declaration-of-war" power to 20th century circumstances. At the same time, our Presidents have shown great vigor and ingenuity in adapting and expanding the Commander in Chief powers to deal with limited and clandestine wars. The process of atrophy of congressional power and unilateral expansion of Presidential power in warmaking has now reached dangerous limits.

There is an urgent need for enactment of a law which codifies historical practice as it has evolved in a prudent manner harmonious with the Constitution. The Congress has ample powers to this under article 1, section 8, of the Constitution. I have been working on such legislation for some time and I intend to introduce a bill to this effect shortly.

Now, I would like to make two observations respecting the previous colloquy. One concerns the matter of the business community which the Senator from Florida has been discussing. It is a fact, as the Senator has said, that the stock market has made a slight recovery from its very deep low point. I hope that we will not be confused by that fact. The fact is that the stock market was at its lowest point for 4 or 5 years. However, it has made a slight recovery. I hope that it recovers more.

Inflation makes it impossible to finance the efforts of such a major corporation as the Penn Central Railroad.

There is a deep erosion of confidence, as shown by the plans for acquisition or for other business improvements.

We are beginning to see a marked erosion of confidence and a decrease in buying by consumers and continuing inflation.

The Vietnam war and the fact that there is in the minds of many people of the United States the suggestion of an expansion of the war because of the Cambodian move are very major contributing factors. Many very outstanding business leaders have expressed themselves on that score.

Business exigencies are now pressing also, as are so many social problems in our country, for some way to bring this war to a close, and not to proceed again, as unhappily Cambodia did, to devastate a large segment of the community because they saw an expansion rather than a contraction of our war efforts.

I hope very much the Senate will face this issue which is being so eloquently debated by Senators. It is essentially a constitutional issue.

Mr. BAYH. I appreciate the contribution of the Senator.

Mr. President, I apologize for the length of the debate. The Senator from Florida has been anxious to pursue some interrogation of the Senator from Indiana, and that is the reason we have been proceeding here.

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

Mr. BAYH. I yield.

Mr. JAVITS. I want to say also that I appreciate the courtesy of the Senator from Florida (Mr. GURNEY) because if he had not allowed me to be yielded to and make these expressions, I would not have been able to do so.

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

Mr. BAYH. I yield.

Mr. CHURCH. Mr. President, throughout much of the debate, opponents of the Cooper-Church amendment have spoken as though they are for our servicemen and that our servicemen are for them. On the other hand, those who support the amendment presumably have no such support among the servicemen who are on the battle line in Vietnam. Of course, that is not so. I am sure the Senator from Indiana has received, as I have, a great many letters from servicemen in Vietnam who wholeheartedly support the effort we are making here.

One such letter arrived today. The letter is addressed to the Senator from Arkansas (Mr. FULBRIGHT), the chairman of the Committee on Foreign Relations. It is so pertinent, I believe it should be printed in the RECORD.

The letter is from one of our fighting men who has been in Vietnam for 10 months and who has been involved in the Cambodian operation. The letter is an indictment of both our presence in South Vietnam—which he labels as a "travesty of reason"—and our invasion of Cambodia—which he claims "was designed to fool the American public."

Mr. President, the soldier writing this letter concludes it with the following plea:

Senator, I beseech you to listen to those dissenters our Vice President has been criticizing, for they are concerned about me and their country. They certainly seem more alarmed than either the President or his "silent majority."

I say "Amen" to these comments, and I hope that my colleagues will show their concern for this young soldier and the thousands like him by rejecting any attempt to water down the Church-Cooper amendment. We can do no less and still meet our responsibility to these young men.

Mr. President, I ask unanimous consent that this letter be printed in its entirety at this point in the RECORD.

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

MAY 23, 1970.

Senator J. WILLIAM FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SIR: My purpose in writing you is twofold. First, I wish to add to the influx of mail demonstrating opposition to the Cambodian drive. As a soldier in Viet Nam for ten months, I am already appalled by the travesty of reason my country is perpetrating here; the push into yet another foreign territory shocks and frightens me.

Secondly, I hope to bring to your attention the extent to which the military officials "planned" the Cambodian campaign, a campaign which was supposed to save American lives and shorten the war.

My artillery unit, part of the 2nd Brigade, of the Fourth Division, was sent into Cambodia with absolutely no building materials, and inadequate water. We didn't receive sandbags, a necessity on any firebase, for three days, and when we did receive them, there were only ten bundles where we needed 160.

Never in Viet Nam did we have to do without materials necessary to provide protection from mortars and rockets. But in Cambodia, where the enemy has artillery pieces, we weren't supplied.

The official explanation was a shortage of logistical equipment, such as the 2½ ton trucks which moved our battery's ammunition and supplies. If that was the case, then why did our battalion commander use one of the few trucks allocated to my battery to move his personal privy and shower to Plei Djereng (Viet Nam), when we needed a truck for sandbags and water?

On our last night in Cambodia, we received enemy mortars and rockets. A friend of mine died, and many were injured; we do not have overhead coverage. I submit that what happened to us, and others, such as the 101st Airborne Infantry, who suffered badly, was the result of something other than a carefully planned maneuver designed to shorten the war and save lives. I submit that the campaign, which purportedly captured huge caches and killed many enemy—where the numbers of weapons, supplies, and enemy dead published in both dubious and captious—actually was designed to fool the American public and benefit a small group of people.

Senator, I beseech you to listen to those dissenters our Vice President has been criticizing, for they are concerned about me and their country. They certainly seem more alarmed than either the President or his "silent majority."

Sincerely yours,

Mr. CHURCH. Mr. President, again I commend the distinguished and able Senator from Indiana for the fine contribution he has made to the debate today.

Mr. BAYH. Mr. President, I appreciate the comments of the distinguished Senator from Idaho.

I feel I have occupied the floor for too lengthy a period of time. I see the Senator from Florida is no longer in the Chamber, so perhaps he has no further questions. I yield the floor, Mr. President.

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. 4204) to amend section 6 of the War Claims Act

of 1948 to include prisoners of war captured during the Vietnam conflict, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11102) to amend the Public Health Service Act to revise, extend, and improve the program established by title VI of such act, and for other purposes.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 12858) to provide for the disposition of certain funds awarded to the Tlingit and Haida Indians of Alaska by a judgment entered by the Court of Claims against the United States; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HALEY, Mr. EDMONDSON, Mr. TAYLOR, Mr. SAYLOR, and Mr. BERRY were appointed managers on the part of the House at the conference.

The message also announced that the House had passed a bill (H.R. 17923) making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1971, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 17923) making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1971, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

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 Virginia. Mr. President, I rise to discuss the Cooper-Church amendment to the Military Sales Act and simultaneously the amendment offered by my distinguished colleague from West Virginia, Senator ROBERT BYRD.

The Cooper-Church amendment provides, among other things, that "in order to avoid the involvement of the United States in a wider war in Indochina and expedite the withdrawal of American forces from Vietnam," no funds may be expended after June 30 for retention of U.S. ground forces in Cambodia, or for conducting any air combat activity over Cambodia other than to interdict the movement of enemy supplies into South Vietnam. This, in essence, is the intent of the amendment.

This amendment has given me a great deal of concern as to just how I should cast my vote.

I favor the objective of the Cooper-Church amendment. I do not want to see the United States become bogged down in a ground war in Cambodia.

Mr. President, 3 years ago, upon my return from Southeast Asia, I made a report on the floor of the Senate.

On April 11, 1967, I said that while

public attention was focused on Vietnam, sooner or later, if the war continued, the problem would be widened and our Nation would be faced with grave decisions regarding Laos and Cambodia.

I want to read at this point a few paragraphs of my speech of 3 years ago:

Our involvement in Asia does not stop with Vietnam.

In order to help the war effort there, we have negotiated with Thailand and have constructed, or are in the process of constructing, four huge military bases there, each of which I visited.

These bases are of great importance to the American military effort in Vietnam.

For example, our giant B-52 bombers heretofore all flown from Guam—a 12-hour round trip to target—will, beginning this month, be operated partially, from Thailand—a 4-hour round trip flight to target.

But our presence in Thailand further commits us in Asia, and it commits us to protect the Kingdom of Thailand.

Visualize, if you will, the map. Vietnam is separated from Thailand by both Laos and Cambodia. In other words, Laos and Cambodia lie between the two countries in which we are currently militarily involved.

The ultimate fate of Laos and Cambodia hangs in doubt with Communist pressure at a high point.

A part of Laos is now an important military base for the Vietcong yet, another part of Laos is cooperating with the United States.

Cambodia claims to be neutral and will not permit the United States to overfly it when U.S. planes go from Thailand to Vietnam. Yet, Cambodia is also a sanctuary for the Vietcong.

Sooner or later, our nation may be faced with grave decisions regarding Laos and Cambodia.

If such is the case and we decide to intervene, we will then have assumed the responsibility for all of what was French Indochina, plus its neighbor, the Kingdom of Thailand. If we conclude not to intervene in Laos and Cambodia, either or both could become another Communist-dominated North Vietnam.

That was my comment in 1967. Today, we are faced with precisely the kind of decision that I foresaw 3 years ago.

The decision is no easier now than it would have been 3 years ago. In some ways it is more difficult, because Communist aggression has spread.

From the very beginning, I have said that the commitment of American ground troops in a land war in Asia was a grave error of judgment.

I have also maintained that the error was compounded by the way in which the war has been conducted. President Johnson and Secretary of Defense McNamara tried to run it out of Washington—with unrealistic reins on the military commanders in the field. It took quite a while before the McNamara concept of a so-called limited war was proved a farce. It prolonged the war and increased the casualties.

The 2 million Americans who have participated in the Vietnam war for the most part did not ask to go there. They were sent there by their Government, most of them having been drafted, taken from their families, homes, and communities and sent to a far-off land to fight.

We now have in Vietnam some 425,000 Americans.

Whether it was wise or unwise to have become involved in Vietnam is not the

question now. We must deal with the situation that exists today.

Our Nation is unified, I believe, in the desire to get out of Vietnam. Our Nation is divided, however, on how best this can be accomplished.

This brings me to Cambodia and to the Church-Cooper amendment.

In late April, there were indications that President Nixon might be called upon to make a decision with regard to going to the aid of the Cambodian Government following the ouster of Prince Norodom Sihanouk.

The President announced that he would address the American people on this subject the night of April 30.

That afternoon in the Senate prior to the President's speech, I urged him not to send American ground troops to fight in Cambodia. I expressed the hope that if aid were to be given in the form of air support, advisers or arms, that it be made clear to the Cambodian Government—and to the American people—that this would not lead to involvement of U.S. combat forces.

I added:

There must be a limit to American involvement in Asia. The United States cannot unilaterally assume the responsibility for the security of all of what was French Indochina.

That evening, the President announced his decision to attack North Vietnamese and Vietcong sanctuaries along the Cambodian-South Vietnamese border—and he sent American troops to accomplish this purpose.

I withheld judgment on the President's decision until I had the opportunity to obtain additional information.

At a White House meeting with the President the following Tuesday, May 5, I was assured, along with other members of the Armed Services Committee, that the President's action was a temporary military tactic for a specific military purpose.

The President stated categorically that no commitments had been made by our Government to guarantee the security of the Cambodian Government. He asserted, too, that all American troops would be withdrawn from Cambodia prior to June 30, and that he had no idea of our becoming bogged down in a ground war in Cambodia.

The President's action, as he explained it, did not contemplate the use of ground forces to fight for Cambodia. The invasion into Cambodia was, he said, for the limited, specific purpose of destroying enemy sanctuaries as a means of protecting U.S. soldiers in South Vietnam. These sanctuaries are within 20 miles of the Vietnamese-Cambodian border.

The invasion of a country with which we are not at war normally is clearly a matter on which the Congress of the United States should be consulted. But the President's action in regard to Cambodia is not a clear-cut example.

It is, to use the President's words, a temporary military tactic for the purpose of protecting American troops in the area adjacent to the enemy sanctuaries.

Nor can Cambodia be considered a neutral nation. The North Vietnamese

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and Vietcong have been using Cambodian territory without hindrance.

So I am of two minds in regard to the Cooper-Church proposal:

We already have too many commitments in Asia. I do not want the United States to assume the responsibility of protecting the Government of Cambodia; but I do not want our Commander in Chief to be prevented by legislation from taking reasonable temporary military steps to protect American troops still in Vietnam.

We have a prime obligation to those Americans our Government has sent to Vietnam. They are entitled to full protection.

This brings me to the amendment offered by the Senator from West Virginia (Mr. BYRD). The Byrd amendment would state in effect that while U.S. forces could not be used to protect the Government of Cambodia, they may be used to protect the lives of U.S. forces in South Vietnam, or to expedite the withdrawal of American troops from Vietnam.

If the Byrd amendment were approved by the Senate, then the Cooper-Church proposal, as amended by Mr. Byrd, would say to the President: "We do not want U.S. forces to be used for the protection of the Cambodian Government, but they may be used in Cambodia as a temporary military tactic, if the President deems it necessary to protect American troops in Vietnam, or to facilitate the ending of the Vietnam war."

As stated earlier, I long have been opposed to U.S. involvement in a ground war in Asia. Somehow, that war must be brought to an end.

But, as I see it, there is—at this late date—no good solution.

President Nixon, I am convinced, is making a sincere effort to achieve a solution—and, indeed, already has withdrawn 115,000 U.S. troops. He is pledged to withdraw 150,000 more by next April—50,000 of these by October 15 of this year.

So he is making progress toward reducing American involvement.

If one believes the President is sincere in his desire to bring the war to a reasonable conclusion, is not acting through the Commander in Chief the most effective way to achieve the desired results?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the previous order of June 5, 1970, requiring the running of the time for debate to begin immediately "after the disposition of the Journal" on tomorrow, be changed to "after approval of the Journal."

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. 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.

MODIFICATION OF AMENDMENT NO. 667

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I be permitted to modify my amendment 667 star print to read as follows:

On page 5, line 7, before the semicolon insert a comma and the following: "except that the foregoing provisions of this clause shall not preclude the President from taking only such action as is necessary in the exercise of his constitutional powers and duties as Commander in Chief, to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam; and the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam;"

Mr. President, the specific changes which I would thus be making in amendment 667, if I am permitted to modify my amendment, would be as follows. I would suggest that Senators may wish to read the star print which is on their desks as I attempt to make the precise suggested changes clear.

I would modify amendment 667 to insert the word "only" after the word "taking" on line 3; to delete the words "may be" and insert in lieu thereof the word "is" on line 4; after the word "necessary" on line 4, insert a comma and the following language: "in the exercise of his constitutional powers and duties as Commander in Chief,"; and at the end of the present language on line 6 of amendment 667 delete the quotation marks and the period, insert a semicolon and add the following language:

And the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander-in-Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam;"

Mr. President, that concludes the modification which I propose.

My modification, when taken together with paragraph (1) of the Cooper-Church amendment and language from the preamble of that amendment beginning with the word "unless" on line 3 of page 5, would then read as follows:

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 except that the foregoing provisions of this clause shall not preclude the President from taking only such action as is necessary, in the exercise of his constitutional powers and duties as Commander in Chief, to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam; and the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam;

Mr. AIKEN. Mr. President, will the Senator yield for a question?

Mr. BYRD of West Virginia. If I may proceed for 30 seconds, I will then yield to the Senator from Vermont.

I have asked the able majority leader if he had any objection to my asking that my amendment now be modified—and unanimous consent is required in view of the fact that the Senate has already entered into an agreement to vote on amendment 667 star print as it was written at the time the request was granted. The majority leader has no objection to my offering this modification.

I have talked with the able Senator from Kentucky (Mr. COOPER) and the able Senator from Idaho (Mr. CHURCH), cosponsors of the Cooper-Church amendment, to see if they would have any objection to such unanimous-consent request. They, in turn, have discussed the matter with the able senior Senator from Vermont (Mr. AIKEN).

I have also discussed it with as many of the cosponsors of my amendment on my side of the aisle as I could contact, and I have also discussed it with the able Republican assistant leader (Mr. GRIFFIN), who is a cosponsor on the other side of the aisle.

None of these Senators objects to my offering this modification.

I yield to the able Senator from Vermont.

Mr. AIKEN. Mr. President, my question is: The Senator from West Virginia understands that our troops are now in Cambodia and were sent into Cambodia solely on the basis of the President's constitutional authority and not on the basis of any legislative authority, does he not?

Mr. BYRD of West Virginia. I understand that the President, in taking the action he took on April 30, did so in the proper exercise of his constitutional authority, powers, and duties. I must be frank to say to the able Senator—and this is my own opinion purely—that I believe the Gulf of Tonkin Joint Resolution, which is now Public Law 88-408, gave him additional legal authority under which he could have acted. But the Gulf of Tonkin Resolution notwithstanding, I think the President acted in the proper exercise of his constitutional powers and duties in moving into Cambodia to protect the lives of our men in South Vietnam.

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Mr. AIKEN. I think the executive department has made it plain they do not rely on the Gulf of Tonkin resolution and have no objection to it being repealed.

Mr. BYRD of West Virginia. Exactly. I understand the President did not rely on that law.

Mr. AIKEN. And has no objection to it being repealed.

Mr. BYRD of West Virginia. I cannot say that.

Mr. AIKEN. I think our Committee on Foreign Relations has been given that understanding. Therefore, it is purely on constitutional grounds, and personally I think he is on much safer ground relying on constitutional authority rather than on interpretation or misinterpretation of any legislative action.

Mr. BYRD of West Virginia. I think I would have to agree to that.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia to modify his amendment No. 667?

Mr. COOPER. Mr. President, reserving the right to object and I will not object to the Senator seeking to secure the best amendment he can present—I think it is a worthy effort. I shall not object to the modification—I would like to follow the question of the Senator from Vermont, that I may have a better understanding of the purpose of the modification. The change may be an improvement. The original amendment No. 667, which the Senator introduced together with other cosponsors, has somewhat the same language. The amendment No. 667 reads in part:

Except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary—

And the modification would read— shall not preclude the President from taking only such action as is necessary.

Then the Senator has added these words:

In the exercise of his constitutional powers and duties as Commander in Chief, to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam.

Am I correct in saying that in the Senator's judgment he considers the addition of the words "in the exercise of his constitutional powers and duties as Commander in Chief" as an important change?

Mr. BYRD of West Virginia. I do. I think it ties his "action" clearly to the President's authority, duty, and power under the Constitution without any regard whatever to any legal authority he might have under laws enacted by Congress.

Mr. COOPER. The sponsors of the Cooper-Church amendment have stated that it is their view that we cannot confer on the President any of his constitutional powers. Would the Senator agree to that statement?

Mr. BYRD of West Virginia. Yes. I agree that Congress cannot grant additional constitutional powers to the President.

On the other hand, we cannot diminish them.

Mr. COOPER. Would the Senator agree, that being true, that the addition of the words "in the exercise of his constitutional powers and duties as Commander in Chief" approves in advance such determination as he may make?

Mr. BYRD of West Virginia. My amendment does not approve or authorize anything. My amendment simply attempts to preclude what I view as an attempt by paragraph 1 of the Cooper-Church amendment to restrict the constitutional powers of the President of the United States. That is my view.

My amendment does not add any powers. It does not authorize anything. It is merely a limitation upon paragraph 1 of the Cooper-Church language taken in combination with certain words in the preamble.

Mr. COOPER. As I said earlier, I am not trying to argue that the President may make an improper decision. I am talking about the effect of the amendment.

As the language is written in the modified amendment, is it not correct that its effect would be that if the President made a determination, no one could challenge it?

Mr. BYRD of West Virginia. I think he has certain constitutional authority now; my amendment does not and could not add anything to the constitutional authority of the President.

Mr. COOPER. But by adopting this modification, would not Congress be saying, "Whatever the President determines, we approve?"

Mr. BYRD of West Virginia. I think the language in my amendment merely recognizes and tries to preclude the Cooper-Church amendment from attempting to alter the status quo, the constitutional powers of the President, acting as Commander in Chief. I think that the language of the Cooper-Church amendment in paragraph 1 cannot amend the powers and authority of the President under the Constitution, but I think it attempts to restrict his authority by indirection, through a cut-off of funds. I say this, of course, without any reflection upon the authors of the amendment. But my amendment does not give approval to anything. It adds nothing. It authorizes nothing new. It merely insists upon the status quo with respect to the constitutional powers of the President acting as Commander in Chief, where the safety of American forces in South Vietnam is concerned.

Mr. COOPER. Just one or two more questions.

There is nothing in your modification, is there, that provides for joint action between the Congress and the President?

Mr. BYRD of West Virginia. There is nothing in my amendment that requires any joint action between the Congress and the President.

Mr. COOPER. That is a distinction between the Cooper-Church amendment and the Senator's amendment. The amendment of the Senator from West Virginia leaves every determination wholly open to the President, with no requirement at all for joint action by the Congress.

Mr. BYRD of West Virginia. Only when he acts within the total universe of his constitutional power.

Mr. COOPER. Only he can make that determination.

Mr. BYRD of West Virginia. But he can do that now, without the Cooper-Church amendment and without the Byrd amendment.

Mr. COOPER. Under the clause, "and the President is requested to consult with congressional leaders prior to using any U.S. forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of U.S. forces in South Vietnam or to facilitate the withdrawal of U.S. forces from South Vietnam," the modification provides only for consultation. I ask, if the President should determine that a situation in Cambodia were dangerous to the security of our forces or the security of the United States and, he should decide to send in large forces of the United States, occupy large territories in Cambodia, commence the support of the Cambodian Government, join forces with the Thais, would he only have to consult with congressional leaders?

Mr. BYRD of West Virginia. Mr. President, I cannot—

Mr. COOPER. I have taken a case that is extreme, but we have to look at all possibilities, and I have presented a case which might occur.

Mr. BYRD of West Virginia. It might occur.

Mr. COOPER. Would the modifications require the President to come to Congress, or would he just be required to advise with congressional leaders?

Mr. BYRD of West Virginia. In the first place, let me say that my amendment does not touch paragraphs (2), (3), and (4) of the Cooper-Church language. Those paragraphs, as far as I am concerned, are meritorious. I think there are some loopholes in them, as I shall attempt to demonstrate in a little while; but I think that paragraphs (2), (3), and (4) are calculated and designed to avoid American manpower participation and involvement in a new war, for Cambodia, against Cambodia, or in support of any Cambodian Government.

Paragraph (1) is all that my amendment affects. Paragraph (1), as I have previously stated, in essence states that unless hereafter enacted by law, no funds authorized or appropriated in this act or any other law may be expended for the retention of U.S. forces in Cambodia. I think that that language as it exists, left untouched, if enacted, would attempt to preclude the President from properly exercising his constitutional powers as Commander in Chief if he thought it necessary to use U.S. troops in Cambodia for the protection of the lives of U.S. troops in South Vietnam. So my amendment is directed to perfecting what I view as a flaw, a weakness, and a mistake in that language.

But conceding that my amendment may be adopted, it adds nothing, it could add nothing, to the constitutional powers of the President of the United States as Commander in Chief. If he can do what

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the Senator says he may do with my language enacted into law, it is only because he can do it now, in recognition of his authority and powers under the Constitution of the United States. It would not be through any additional powers, authority, legal or otherwise, granted by my amendment. Some persons may even interpret it as a limitation.

Mr. COOPER. I say, with great respect, it is a limitation only in the respect that the President is asked to talk with the leaders.

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

Mr. COOPER. I yield.

Mr. BYRD of West Virginia. I view it as a limitation in this respect: Without any language at all, without Cooper-Church, without the Byrd amendment, but under the Constitution as it is presently written, the President is Commander in Chief of the Army and Navy. I think that he may use U.S. forces in Cambodia if he deems it necessary, now, to protect the lives of American forces in South Vietnam, and I do not believe that he is confined to that constitutional predicate for the use of U.S. armed forces in Cambodia. I think he has additional legal authority under the Gulf of Tonkin language to so act.

But under my language, he would be confined to the constitutional predicate insofar as we would express our sentiments here. We cannot cut off or reduce his constitutional authority.

Mr. COOPER. Mr. President, I do not want to drag out the discussion, I do not condemn or criticize the military operation; it is done. But the explanation given was that a situation existed which could endanger our forces, not immediately, but in a period of the next few months.

Assume that the President is informed of a situation in Cambodia which he considers may be so dangerous to our troops or to the security of this country that he considers it necessary to move into Cambodia with large forces, to assure their protection; perhaps to join with the Cambodian troops and support the Cambodian government; to provide instructors and supplies to the Cambodian forces, and to South Vietnamese forces in Cambodia.

Does not the Senator consider that is a fairly large order, that it would be a new course in the policy of the war? Does he not consider that that would be a situation where there should be a joint determination by Congress and the President, when so much of our manpower and our future resources would be required?

But under the Senator's amendment, there is no requirement for joint action. In fact, on the contrary, if it does not require it, in effect, it would make none of those determinations ever come to Congress.

Mr. BYRD of West Virginia. No. If under my amendment it is not required, it is because under the Constitution of the United States it is not required. My amendment does not give the President any additional authority, period. I agree that the President, if we are going to attempt to enter into any new commit-

ment, ought to come to Congress and get its approval for such a new commitment. But if we view what has been said by the President and the experiences that have developed since April 30 in the context of the conditions that caused the President to take the action that he did on April 30, I believe that we will have to recognize, first, that that was not a new commitment, that it was the same war, that we were fighting the same enemy, and that under the principles of international law, we were not, indeed, invading a neutral territory—we were just going over into another part of the war zone temporarily.

Second, I believe that in view of these things, if the President is acting in good faith—and we have got to have some faith in the President, regardless of what his name is or what his political party may be—I have faith that before he would attempt anything like such a new commitment, he certainly would come before Congress and request approval.

Third, I think that paragraphs (2), (3), and (4) of the Cooper-Church amendment, which I intend to support if this language which I have offered is adopted, go a long way toward expressing the clear sentiment of Congress, if they are enacted into law, against any involvement of American manpower in any "new commitment," in any "new war," in any war "for" Cambodia or "against" Cambodia or for or against any other country in Southeast Asia. I think they go a long way, if I may say so to the Senator from Kentucky, toward achieving what he hopes to achieve and what we all want to achieve.

But I fear that paragraph (1) could, to the extent that funds would be cut off, do indirectly that which Congress cannot do directly, and that is to inhibit or infringe upon, contravene or diminish, the powers of the President of the United States as Commander in Chief. Finally, may I say that the President's action in such a hypothetical situation would derive from his constitutional powers—not from any new authority emanating from my amendment, because there is none.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. BYRD of West Virginia. I yield to the Senator from Arkansas.

Mr. FULBRIGHT. What bothers me about the Senator's argument is an assumption that he seems to make, which he feels is self-evident, about the extent of the President's legitimate constitutional powers as Commander in Chief.

This theory, that, as Commander in Chief, he has vague and unlimited powers to involve us in a war in other countries, is a brand new one, which I never heard of before. Even Mr. Katzenbach, in his most extreme statement before the committee, did not dwell upon the President's powers as Commander in Chief. Before the Cambodian incident, I do not think it has ever been considered that the Commander in Chief's power meant any more than taking care of the needs of the Army—in other words, give them food, drink, and shelter, and look after them—while it is in a battlefield that has been authorized by Congress. It was never before interpreted to mean that this gives

the President the capacity to attack or to enter or to invade other countries, on the theory that to do so might protect the lives of our troops.

I think this is a new theory, and I do not think it is a sound constitutional assumption. I think such an interpretation flies in the face of the Constitution.

I would return, first and foremost, to statements made by Alexander Hamilton in this regard. They are a good authority; at least I think they are. Being a strict constructionist, I still like to return to those who wrote the document and see what their interpretation was. I should like very much to read just one short excerpt from Federalist No. 69, written by Alexander Hamilton, who was, as the Senator knows, a strong advocate of an executive authority. He believed in a strong executive. But this is what he said:

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.

Moreover, the very language of the Constitution, it seems to me, is revealing, and I wish to emphasize it. This is article II, section 2:

The President shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States.

In other words, if I read that correctly, the President is not Commander in Chief at any time he so chooses, but rather when the Armed Forces are called into service by the Congress.

I grant that, by neglect and acquiescence, there have been some instances in which this has not been strictly followed, and of course we all admit that in the case of an emergency, an attack upon this country, it has always been interpreted that the President has the right to take appropriate action.

What the significance of this is, and what bothers me about the amendment of the Senator from West Virginia to the Cooper-Church amendment, is that, it would negate this amendment, and as he has said—I think he has said it; others certainly have said it—there is a very remote possibility that the Cooper-Church amendment could be entered into law.

If the President opposed it, and I am sure he would, his veto could be overridden, but that is very doubtful. I am under no illusion. But this is still a very significant follow-on to the commitments resolution. What is joined here is the interpretation of the Congress' authority versus the President's. The same issue was involved in the commitments resolution. I am interested in restoring a reasonable participation by the legislative branch in the making of foreign policy.

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To illustrate what I mean, I want to read from a questions and answers pamphlet of the Bureau of Public Affairs, number 12, on page 5, an official document of this administration, the Department of State, May 1970. I want to read from it to illustrate what I think the issue is.

QUESTION. What is the legal basis for the President's decision to commit American lives and materials in Cambodia?

ANSWER. The President was acting under his constitutional authority as Commander-in-Chief of the Armed Forces of the United States. Also, as Chief Executive, he has the supreme responsibility for determining and directing our foreign policy.

I say this is not so. I think that any reasonable interpretation or any reasonable reading of the Constitution does not support that. The President does not have supreme responsibility under the Constitution. If we wish to give up our authority and delegate it to him, we do not change the Constitution. We simply abdicate, we abdicate, any responsibility for discharging our responsibility under the Constitution. We cannot change it. But we can neglect it.

I think the basic assumption of the Senator's amendment is incorrect constitutionally, and it would put the Senate in the position, if we approved it, of agreeing to his interpretation, which I think is a departure from the Constitution. I do not want to be part of a further weakening of the influence of the Senate in the making and carrying out of foreign policy. That is the main reason why I support the Cooper-Church amendment. It is very unlikely to be enacted, but it is an expression of the attitude of the Senate. It is similar in effect to the commitments resolution of last year, which I think was a very healthy step toward restoring the role of the Senate in our foreign policy.

This is simply based upon the general idea that discussion and participation by the Senate is a healthy thing, as opposed to allowing one man to make the kind of decision that has taken us into Cambodia—which was done without consultation with the Senate.

As a matter of fact, so far as the Committee on Foreign Relations is concerned, only 3 days before that took place, the Secretary of State appeared before the committee and in a sense disarmed us from any suspicion, because of his failure to mention the pending invasion or anything closely resembling it. Not only was the committee not told, but also, due to the fact that I had not the vaguest idea such an action was contemplated, I was completely taken by surprise when the decision was announced.

So I think this issue goes to the heart of our constitutional system. Congress, especially the Senate, is given a very special role in the area of foreign policy; it has responsibilities with regard to treaties, ambassadors, the confirmation of appointees, and so forth.

As a Senator, I find it very difficult to justify being here and not at least giving the country an opportunity to know what is going on in foreign policy.

With all deference—and I do not attribute all of this to this administration,

because most of the things I am talking about arose in the previous administration—we were not told about Cambodia. Not only were we not told about the Cambodian decision but also, we have been deliberately and consciously deceived in the past with regard to such things as the cost of the Thai troops whom we were paying over \$200 million and the amount we were paying to the Philippines for sending in their troops to Vietnam. Many of these arrangements that were made by the previous administration were not told to anybody. We just now, as a result of the Symington subcommittee, are finding out about them, after great and difficult troubles. Much of this has not been revealed to the public.

That is my objection to the Senator's amendment. I do not think there is anything in our history to justify this interpretation of the Commander in Chief's powers. It is a new theory. The only thing comparable to it that I know of is a statement about the President's powers by Dean Acheson, when he was in the State Department, back in 1951.

I know of no cases or anything of that nature that would support this new theory. I regret that I do not agree with the Senator from West Virginia on this, but I feel that the Senate has a role to play, and I want to see it play its proper role. I think the country would have been better off under the previous administration and it would be better off under this one if there were genuine consultation with the Senate.

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

Mr. BYRD of West Virginia. I thank the able Senator.

If I may just respond, the Senator from Arkansas refers to "this interpretation of the Commander in Chief's powers." The Byrd-Griffin language makes no attempt whatsoever to interpret the President's powers. It does not add to those powers. It does not take away from them. It does not define them. It does not say what they are. It merely precludes the language in paragraph 1, when combined with language in the preamble of Cooper-Church, from attempting to circumvent or restrict or diminish the President's powers under the Constitution, whatever they are.

I do not attempt to say in the language of this amendment what the President's powers are. We do not attempt to interpret the President's powers. They are what they are, not by what we say in this amendment but by what the Constitution says they are.

Mr. FULBRIGHT. I did not make myself clear. I did not say the language of the amendment says that. I said that the argument the Senator is making assumes that.

Mr. BYRD of West Virginia. I have not made any argument.

Mr. FULBRIGHT. It was in the colloquy of the Senator from West Virginia with the Senator from Kentucky. It seems to me that the Senator from West Virginia assumes that the President, as Commander in Chief, has these powers to go into Cambodia. I thought he said that in his exchange with the Senator

from Kentucky. I was not saying that the Senator from West Virginia said that in his amendment. I thought that in his exchange with the Senator from Kentucky he was assuming that the President has the power to do almost anything he likes as Commander in Chief even so far as going into another country, such as Cambodia.

Mr. BYRD of West Virginia. I did not say, and I did not mean to say—if I did say—that the President may do whatever he wants "or almost anything he likes" in going into Cambodia. I simply said that I thought the action he took on April 30 was taken not on the basis of any legal authority which Congress may have given to him by statute but that he acted under his constitutional powers as Commander in Chief.

Even the cosponsors of the amendment—if I have not read incorrectly and do not recall incorrectly—have conceded that the President, in taking the actions he took on April 30 in ordering an incursion into Cambodia, acted within his constitutional powers. I do not believe I am misstating the position of the Senator from Kentucky. I have read the RECORD, and I think I am stating correctly, in essence, what he said. I believe the Senator from Kentucky has not found fault with the President's actions, so far as their being within the ambit of the proper exercise of his Presidential powers as Commander in Chief is concerned.

Mr. COOPER. I have said that in our amendment we do not speak about military operations. Our amendment is prospective, beginning July 1. I have not tried to talk about what happened in Cambodia.

I think everyone is concerned with the operation. There was great uncertainty in the country. But I am not here to speak against the President. We are talking about the powers of the executive, and I am concerned about the future exercise of those powers without any effort to come to Congress, even when that exercise of power could lead to another new war.

Mr. BYRD of West Virginia. I know of the Senator's concern.

Mr. COOPER. It is a matter of great concern. It is not a derogation of President Nixon. We are trying to determine the rights of Congress.

Mr. BYRD of West Virginia. I think the able Senator may have misunderstood my reference to him. I was merely trying to respond to the distinguished Senator from Arkansas who had indicated that he thought, according to his understanding of what I had said, that I assumed the action in Cambodia, which was announced by the President on April 30—

Mr. FULBRIGHT. Yes.

Mr. BYRD of West Virginia (continuing). Was within his constitutional powers—

Mr. FULBRIGHT. That is what you said.

Mr. BYRD of West Virginia (continuing). And my response to that was that I thought even the cosponsors of the Cooper-Church amendment had conceded that—

Mr. FULBRIGHT. In other words, you had assumed that, is that right?

Mr. BYRD of West Virginia. Yes, I had assumed that from a reading of the RECORD.

I said, also, that there is no argument with the able Senator from Kentucky and the able Senator from Idaho—

Mr. FULBRIGHT. Well, the Senator means that—

Mr. BYRD of West Virginia. If I might continue with my sentence—I do not think that they disagree, if I have read their statements correctly in the CONGRESSIONAL RECORD, and I do not think they question the constitutional power and authority of the President in ordering the Cambodian operation.

Mr. FULBRIGHT. Maybe I have not made it clear. First, I want to distinguish between constitutional "power" and "authority." The President may often do things by power and by virtue of his office which are in accordance with the Constitution. I make the distinction between power and authority, which is something authorized under a legal interpretation. Power is something that the President has because others are willing to follow his orders. We all know that that sort of power is something quite different from the President's constitutional authority.

Mr. BYRD of West Virginia. There is a great distinction.

Mr. FULBRIGHT. I agree with the Senator from Kentucky that we are not trying to undo the invasion of Cambodia. That is not what the Senator from Kentucky wants to do. We all know that we cannot undo that. It is done. I am interested in the future, and I was making the point simply because I do not want to subscribe to any Senate action which will be interpreted as a recognition that as Commander in Chief the President can move troops into any country when he alone believes it is necessary. If you subscribe to this new theory, there is no limit to the President's authority. If he feels that the activities of the Russian Government are inimical to the safety of our troops, under this interpretation, there is no reason he cannot bomb Moscow tomorrow. It is an untenable theory. It is a new theory. Maybe history will prove there is substance to it. At the moment, I do not believe that is the case. I do not believe this theory will stand a close constitutional examination; the fact that the President has the power to issue orders and to get the troops to follow does not make the act constitutional or in accordance with the letter and spirit of the Constitution.

I agree with the Senator from Kentucky. That is not the issue in his amendment, but it is the issue in the Byrd amendment. And passage of it would run the risk of putting the Senate on record as having this interpretation of denigrating what I believe to be the proper role of the Senate.

I agree further with the Senator from Kentucky. I am certainly not trying to criticize this President. My major criticism was voiced long before this President came into office. It was directed to his predecessor. But I am very anxious to do two things: One, stop the war in Viet-

nam and, two, restore the proper role of the Senate in our constitutional system.

I can think of no greater safeguard to the safety of this country than participation by the Senate—real participation by the Senate—in decisions involving the lives and fortunes of our people. I think it is very important that the Senate have a role, and I do not mean by that that the Senate is smarter than anyone else. It is simply that the procedures undertaken by 100 men in the Senate, elected from the various States, are, I think, a healthy way in which to refine the issues and bring to light any faults in them.

I believe in the Senate as a body which, given the opportunity to discuss matters, and given a reasonable amount of information, can make a contribution. That is all I am saying. If we proceed along the line of accepting the language of the State Department that the President has supreme responsibility, then we might as well fold up shop and make this a purely honorable position, for life, as in the House of Lords. If we wish to abdicate our responsibility, we should not have to run for office but should be appointed, so that we would not have to be bothered by running for office. The Senate would thus be reduced to a ceremonial body, like the House of Lords. However, I am not about to contribute to that, if I can help it.

Mr. BYRD of West Virginia. Mr. President, I do not intend to belabor the distinction between powers and authorities under the Constitution. I did use words, perhaps, interchangeably. I hope I did not misquote the Senator, but I think the transcript will show that he, too, used the word "power" a time or so when he may have meant "authority." Whether we are talking about powers or authority, my amendment, as co-sponsored by 10 to 12 other Senators, does not use the Senator's words, put "the Senate on record" as having approved of any particular "interpretation" of the authority of the President under the Constitution.

My language does not attempt to interpret. It does not add to the President's powers or authority. It does not take away from them; it does not attempt to define them. It merely says that whatever they are, whatever they are, whatever they are, the President shall not be inhibited, by cutting off funds, from exercising such constitutional power and authority if necessary to protect the lives of our troops in South Vietnam.

Mr. FULBRIGHT. I was referring to the language of the Senator, in debate, a moment ago with the Senator from Kentucky, and his words are part of the legislative history as to the meaning of this amendment. The Senator from West Virginia stated—I thought unequivocally—that there is no question in the Senator's mind, or in the mind of the Senator from Kentucky but that the President acted within his constitutional authority.

I say that is not an issue and would not be a proper issue in considering the Cooper-Church amendment. It is an issue in considering yours, if that interpretation is allowed to stand. You have already made in the legislative history of your

amendment, in the arguments you presented.

Mr. BYRD of West Virginia. In essence, the Senator is expressing his viewpoint. He differs with me, and he has a perfect right to disagree with me, as to whether the President acted within his constitutional authority in ordering the Cambodian incursion. I think even the sponsors of the Cooper-Church amendment have said that the President acted within his constitutional powers in that action. But this language here does not go to that action. It has nothing to do with what he did on April 30. It does not touch that at all. It takes over after June 30.

The Cooper-Church language says that after June 30 no more funds can be utilized for retaining U.S. Armed Forces in Cambodia unless hereafter specifically enacted by law. The language that I have offered would simply say, "except" when the President himself determines that it is necessary to act, in order to protect our troops in South Vietnam, and so forth, and so forth.

Mr. FULBRIGHT. I do not see how the Senator can say that a recognition of what the President may do or want to do in the future is automatically constitutional, that there is authority for it in his role as Commander in Chief. I do not believe it is a fact. I do not believe there is any support for it. Adoption of the Senator's amendment will be taken as a precedent that the Senate has so abdicated its foreign policy role as in effect to be saying that the President may do as he pleases.

There certainly would no longer be any need for a declaration of war, because all the President would need to do as Commander in Chief is say, "I think we ought to move into Mexico. These people are threatening our troops." The Senator's amendment would result in a complete distortion and abdication of the role of the Senate.

Mr. BYRD of West Virginia. What the Senator from Arkansas has just said, if I understood him correctly, would be a complete distortion of the meaning of my amendment.

Mr. FULBRIGHT. Mr. President, it seems to me that this is what the Senator has said. We seem to have trouble with semantics. I think I have interpreted correctly the Senator's remarks.

Mr. SPONG. Mr. President, will the Senator from West Virginia yield for the purpose of clarifying the parliamentary situation?

Mr. BYRD of West Virginia. Mr. President, I yield to the able Senator from Virginia for that purpose.

Mr. SPONG. Mr. President, the Senator from West Virginia has asked for unanimous consent to modify his own amendment. His amendment is before the Senate pursuant to a unanimous-consent agreement, thereby precluding, as the Senator from Virginia understands it, any amendment to his amendment or any substitute for his amendment.

My question is—and I do this for the record—if the unanimous-consent agreement asked for by the Senator from

West Virginia is granted, the language he is presenting this afternoon would then take the place of his previous language and would not be subject to any subsequent amendment or any substitute before the vote at 1 o'clock tomorrow except by unanimous consent.

The PRESIDING OFFICER (Mr. HUGHES). The Senator from Virginia is correct.

Mr. SPONG. Mr. President, reserving the right to object—

Mr. BYRD of West Virginia. Mr. President, would the Senator allow me to make an observation?

Mr. SPONG. Certainly.

Mr. BYRD of West Virginia. Mr. President, even without this new modification, is it not true, Mr. President, that amendment No. 667, star print, which I offered some days ago, constituted an amendment in the second degree and that it therefore could not be amended, entirely aside from this new modification which I have offered today.

The PRESIDING OFFICER (Mr. HUGHES). The Senator from West Virginia is correct.

Mr. SPONG. Mr. President, reserving the right to object—and the Senator from Virginia certainly does not want to be in the position of preventing the sponsor of an amendment to modify his own amendment, especially when the modification, to some degree, helps his amendment—I would only ask that we proceed with the debate in order that certain other legislative history might be established. It may be that in the course of this debate there will be some changes suggested which would be acceptable to the Senator from West Virginia.

I do not now that there would be significant changes, but there might be changes in language that the Senator from West Virginia, as well as others, would later like to include but be precluded from doing so if we consent to his request at this moment.

Mr. BYRD of West Virginia. Mr. President, as I understand the parliamentary procedures in the Senate, approval of my unanimous-consent request at this time would not preclude me from asking unanimous consent that my language be further modified.

Mr. SPONG. Mr. President, I have made it clear that I have no desire to stop the Senator from modifying his amendment. But I would observe that from some of the language that has been discussed in the moments that we have been debating the matter, it might be that there is preferable language, preferable even to the Senator from West Virginia. I merely made my previous inquiry because I think the record should show the parliamentary situation as of this time.

In the course of his remarks, it might also occur to the Senator from West Virginia and others that there could be further changes he might wish to make.

Mr. BYRD of West Virginia. Mr. President, I feel that I need to respond to the statement of the able Senator from Virginia. I recognize his sincerity of purpose here. But I have to say that I have spent many hours in attempting to perfect and

improve my amendment, taking into consideration the legitimate concerns that have been expressed to me by the able Senator from Virginia and by other Senators whom I could name.

To say now that we ought not to grant unanimous consent today, but should continue to debate the matter in the hope that tomorrow perhaps there might be other language suggested, I hope is really not within the cards here.

I have worked at least 2 days on this language. And I have touched base with the majority leader and with the sponsors of the Cooper-Church amendment, and with the able assistant leader on the minority side, and they have interposed no objections.

We are boxed in now, if this unanimous-consent request is not granted, with amendment No. 667, the star print. We will have to either vote it up or down.

This is an attempt to improve that language and to meet the legitimate concerns on the part of many Senators.

I think most everyone agrees that this is an improvement.

I do not want to delay this or to put it off. I want to secure unanimous consent within a reasonable time or I may withdraw my unanimous consent request. And I do not mean to say that disrespectfully.

Mr. SPONG. Mr. President, the Senator from Virginia had no intent of asking for any delay until tomorrow. I understood that the Senator from West Virginia came to the floor prepared to make some additional remarks in support of the Byrd-Griffin amendment, and of the changes thereto.

I only suggested that there be a reasonable period of time during which a discussion take place, because there is a possibility that changes would occur to the Senator from West Virginia.

For that reason, I suggested that we defer acceptance of the modification for a short time, but not with any idea of delaying it until tomorrow. I would like to make that clear.

Mr. BYRD of West Virginia. Mr. President, I misunderstood the able Senator. I think his suggestion is well considered.

I do not say that I will not agree to any proposed changes in the language of my modification. As I say, this language was not taken off the top of my head. It was worked on, hammered out, and then rehammered and discussed with co-sponsors, legislative counsel, and so on. But I am perfectly willing to discuss the language for a while yet this afternoon.

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

Mr. BYRD of West Virginia. Mr. President, I compliment the Senator on his suggestion.

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

Mr. BYRD of West Virginia. Mr. President, I yield to the Senator from Idaho.

Mr. CHURCH. Mr. President, in light of the language, I can understand what has been troubling the Senator from Virginia. In the last few minutes of discussion, for example, a question came up concerning the term "authority" as opposed to the term "power."

The Senator from West Virginia cor-

rectly observed that there is a difference between "authority" and "power."

Mr. BYRD of West Virginia. The Senator from Arkansas quite correctly observed it.

Mr. CHURCH. And in the modified amendment which the Senator is offering, there are the words, "powers and duties." It reads:

... in the exercise of his constitutional powers and duties as Commander in Chief.

I personally think that language could be improved, replacing "powers and duties" with "constitutional authority as Commander in Chief."

That term better represents, I believe, what the Senator from West Virginia has in mind.

I hope that the Senator will not foreclose the possibility of any alteration which might perfect the amendment and thus do harm to what he is trying to achieve in offering the modified language.

Mr. BYRD of West Virginia. Mr. President, I quite agree. There is always room for improvement. And perhaps we can improve it. But I must say that it has not been easy to work out the modifying language I have suggested here.

Mr. CHURCH. Mr. President, I appreciate that.

Mr. BYRD of West Virginia. Mr. President, if I may, after yielding to other Senators that I had already promised to yield to, I will then proceed with my statement.

The PRESIDING OFFICER (Mr. HUGHES). Is there objection?

Mr. BYRD of West Virginia. Mr. President, I do not think the Senators are ready to consent to my request yet.

Mr. FULBRIGHT. Mr. President, I am not ready.

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

Mr. BYRD of West Virginia. Yes, I yield to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I have been sitting here for some time, and one or two of the items I wanted to discuss occurred far back in the line of discussion.

However, one or two of the remarks of the chairman of the Committee on Foreign Relations in his colloquy with the Senator from West Virginia bother me. It may be that with the confusion I did not understand him. I want to have straightened out the question as to whether or not the President is Commander in Chief of the Army and Navy of the United States. He is the actual Commander in Chief of the Army and Navy of the United States whether we are at war or not—at all times. Does the Senator agree with that statement or not?

Mr. FULBRIGHT. Mr. President, will the Senator from West Virginia yield so that I may reply?

Mr. BYRD of West Virginia. Mr. President, I yield for that purpose.

Mr. FULBRIGHT. I think it ties in with what I call the strict construction and the proper construction of the Constitution, which I read again:

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual service of the United States.

What does the "when" mean, read together with the other provisions of the Constitution that Congress is the one to declare war and make regulations concerning an Army and Navy, and Congress is the one, and the only one, that raises and supports an Army and a Navy? These are the responsibilities of the Congress, not the President. That is what I said a moment ago.

Mr. ALLOTT. Mr. President, will the Senator from West Virginia yield further?

Mr. BYRD of West Virginia. I yield.

Mr. ALLOTT. I thank the Senator for yielding.

I did understand the Senator correctly. I want to make my position clear on this matter, and I think the Constitution is perfectly clear on it. It refers to the President as Commander in Chief of the Army and Navy of the United States "and of the militia of the several States when called into the actual service of the United States;"

When a man enters the service of the Army or Navy he is already in the service of the United States. When he raises his hand, he takes an oath to support and defend the Constitution of the United States. So the portion that the Senator from Arkansas is referring to, "when called into the actual service of the United States," can only possibly refer to the militia; and it is obvious from a reading of the language that that is what is intended.

There has been much debate about the difference between the words "authority" and "power." I think that if I do something with authority it is because I also have the power. I find a differentiation without distinction.

I had hoped to be able to discuss this matter at some length this afternoon. I have in my hand a very learned paper written by Prof. Robert Sciglianno, of the State University of New York at Buffalo, on exactly this matter. In it, he discusses at great length the formulation of the Constitution and the positions taken by various persons at that time.

Among other things, he points out that some people at that time wanted to make a distinction and did make a distinction between the power of making war and the power of declaring war. I cannot come to any other conclusion myself, and I must disagree with the chairman of the Committee on Foreign Relations. I think the primary and basic responsibility of the Government in foreign relations does lie within the President. This does not mean he should not advise with Congress.

I found myself in the previous administration a Member of the minority; yet apparently I was privy to advice in committee. That was really the only advice, because neither the President, the Secretary of State, nor the Secretary of Defense ever took me into their offices and confided in me; but the information which was adduced in two places—on two or three occasions when I appeared

at the White House with numerous other Senators, perhaps 15, 20, or 40 Senators, and in the Subcommittee on Defense of the Committee on Appropriations—apparently did not come to the attention of others at that time.

I feel that this is a basic matter. The Constitution specifically gives Congress the power to advise and consent in certain instances of appointments, and it gives us the power for the ratification of treaties. In addition—and this is very significant and important—there was considerable debate at that time as to whether Congress would have to be talked to, referred to, for advice and consent not only when the President would declare war, but also when the President would make peace. So all these things are highly significant.

Mr. FULBRIGHT addressed the Chair.

Mr. BYRD of West Virginia. Mr. President, have I the floor?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. FULBRIGHT. Mr. President, I do not want the floor.

Is the unanimous-consent request pending?

Mr. BYRD of West Virginia. Yes.

Mr. FULBRIGHT. I do not want to be contentious. I did not realize that the Senator's proposal was pending until I came to the Chamber a moment ago. I am not going to consent to it at the moment, certainly. I think that by inserting the additional language we have been discussing, including the request for consultation, which I consider is the President's constitutional duty in any case, the amendment becomes complicated. Of course, the Senator from West Virginia knows that I am opposed to his offering his proposal, although as between the two versions, this one has graver implications and, I think, needs further debate. This proposal provides additional language, and it is possible to assume from it a greater abdication by the Senate than the original language—if it is adopted. It may be adopted. I do not deny that the Senator from West Virginia has great influence in this body, and his proposal might very well be adopted. At the moment, I would not want to say that I would not agree to it at a later date. But the amendment has additional implications, as I stated a moment ago, or assumptions with regard to the President's authority as Commander in Chief.

If the Senator from West Virginia will allow me to do so, particularly in view of the remarks of the Senator from Colorado (Mr. ALLOTT), I should like to quote from a statement which might appeal to him. It was made by a well known man, Abraham Lincoln. When he was a Representative from Illinois, he made this statement in 1846:

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 Con-

stitution 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 understood to be the most oppressive of all kingly oppressions; and they resolved to frame the Constitution that no one man should hold the power of bringing this oppression upon us."

Mr. ALLOTT. Mr. President, will the Senator yield for a moment?

Mr. BYRD of West Virginia. I yield to the Senator from Colorado.

Mr. ALLOTT. It must be noted—and this is a very important distinction in the remarks of Abraham Lincoln—that he said "that no one man should hold the power of making war." I believe that was the quotation the Senator from Arkansas made.

Mr. FULBRIGHT. Lincoln said:

Allow the President to invade a neighboring nation—

Mr. ALLOTT. No; there was another sentence.

Mr. FULBRIGHT. He said:

Whenever he shall deem it necessary—

The word "he" is underlined, apparently for emphasis—

Whenever he shall deem it necessary to repel an invasion and you allow him to do so—

And that language is underlined—

Whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure.

Mr. ALLOTT. That is the phrase:

And you allow him to make war at pleasure.

But we do not have that situation now, because the war has already been made. It was made as a result of the Gulf of Tonkin resolution, or it was made, perhaps, without any authority at all. But that is not pertinent at this time; the war has already been made. It is in existence. The President is the Commander in Chief of the Army and Navy. There are no troops from the other groups; so far as I am aware, no units of the militia are engaged. If units of the militia are engaged, they are incorporated in the Army, Navy, Marine Corps, and Air Force.

So therefore, they are at all times under the command of the President.

So we are talking about making war here. The war has already been made. At a subsequent time I would be glad to explore with the Senator the situation of what we do in these modern times, in this greatly changed world. Maybe we will have to approach this problem sometime. If, on the radar blip some night NORAD sees 40 or 50 or 100 or 200 missiles coming over the horizon from the direction of

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one of the other countries in this world—surely I think it is our responsibility and we ought to be looking at what our responsibility is in that kind of condition—I do not think in a few seconds anybody is going to have time to consult Congress. This is another aspect of the problem that I hope will be discussed on the floors of the Houses of Congress. But the war has been made and the President is Commander in Chief.

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

Mr. BYRD of West Virginia. I yield.

Mr. FULBRIGHT. I think it worth mentioning with respect to the Gulf of Tonkin resolution, the administration itself, in a letter to the committee concerning the repeal of the Gulf of Tonkin resolution, wrote that it is not relying on the Gulf of Tonkin resolution and it has no objection to its repeal. The preceding President, President Johnson, said, after it had been passed, that he could have done what he did without the Tonkin Gulf resolution, and that he could have done it from a constitutional point of view.

The Senator is anticipating a speech I was going to make a little later. Of course, the President at that time used it to try to neutralize possible opposition. He was wanting to get Republicans and any dissident Democrats disarmed before he took action. That was the real purpose of the Tonkin Gulf resolution. It was not to get any additional constitutional authority he did not have. He assumed he had it. He said later he had it and could do anything he wanted with it.

I disagree with Acheson's interpretation of Presidential powers and Johnson's interpretation. I said a moment ago it comes to the question of the role of the Senate, and I think it is an important one—

Mr. BYRD of West Virginia. Is the Senator talking about Presidential power or Presidential authority?

Mr. FULBRIGHT. Presidential constitutional authority; what he should do, if we have a reasonable interpretation of his role under the Constitution. If a man wishes to go beyond that and violate his constitutional oath, he may do it, if people will respond to it.

Lastly, in response to the Senator from Colorado's theory, if we accept that theory the President could go into China or go into Russia or go anywhere else he likes. I think the Senator's theory is basically faulty and very dangerous if he says the President can do that. He admits possibly there was no authority, because he does not defend the Gulf of Tonkin Resolution. I hope he will not defend it, because, in my view, it was obtained by fraud and misrepresentation; and even if it had been a grant of authority, having been obtained under such false pretenses, it was not valid, any more than a contract obtained by fraud is valid. But I do not think the theory that, as Commander in Chief, the President can expand the war into additional countries, without any consultation or approval by Congress, is an acceptable one.

I grant that that is not what the Cooper-Church amendment is trying to get at, and that this has merely arisen

in the course of the debate. What I am afraid of is that the amendment of the Senator from West Virginia raises this problem. It injects into the issue the extent of the Commander in Chief's authority.

I would very earnestly hope that we would not do anything further to weaken the role of the Senate, weaken it by acceptance of language which seems to endorse unlimited powers for the President as Commander in Chief.

I realize that the Constitution is not self-executing and that Presidents depend to a great extent on the respect of the people and of Senators. If we wish to ignore our role and turn it all over to the President, there is no other authority to fill the constitutional role assigned to this body. I think it is essentially a political matter and it depends on the commonsense of the Senate and the people as to how the Constitution is binding.

My only comment on that is that last year, by its vote on the commitments resolution, the Senate voted—and I shared the concern expressed then—that we had not been as careful about exercising our responsibility as we should have been, especially in the Gulf of Tonkin matter, and that we should try to play a meaningful role in the foreign policy area.

This is my main objection to the amendment of the Senator from West Virginia: I believe it would weaken the Senate's effort to reestablish its role.

Mr. ALLOTT. Mr. President, will the Senator yield to me for two very brief comments?

Mr. BYRD of West Virginia. I yield.

Mr. ALLOTT. First, I find, in talking with people, that they are willing to read things into my thoughts that I never thought of. I do not contend the President has a right to make war on China, but I agree entirely with the Senator from West Virginia that this is not a new war. It is not a new country.

It is, in fact, not even an area that is controlled by a new country. It has not been for 5 years. I think that is the first and greatest distinction.

Then I would like to add this: Since I was a Member of the Senate at the time the Gulf of Tonkin resolution—the Senator from Arkansas prefers that term, rather than Tonkin Gulf; technically I presume he may be right, or it is another distinction without meaning—it may have been procured by fraud, I do not know; but I was a Member of the Senate at that time, and I just want to make it clear that the Senator from Colorado was not a party to the fraud, and I am sure the Senator from Arkansas would agree with that.

Mr. FULBRIGHT. Mr. President, I want to make it clear that I was hoodwinked. I was guilty, if Senators want to call it that—though certainly innocently—of representing to the Senate the same facts that were told to me by the Secretary of Defense and the Secretary of State. I repeated on the floor what they had said to me in committee. I was a vehicle, a conduit. Certainly I did not have any firsthand knowledge of what did or did not take place in the Gulf of Tonkin.

I did not suspect at the time that we were misled. I think subsequent developments have clearly proved that we were. Not only the committee hearings, but a recent book which goes much farther into the matter, including interviews with practically every member of the crew of the *Maddox*, clearly establishes that we were hoodwinked.

All I am saying is that the Senator from Colorado, without any blame whatever, was entitled to believe what I believed and what I said, as well as what the other members of the committee said; and the Senator from Colorado had no other knowledge, either. I am not trying to assess blame to him. I do assess a great deal of blame to both the Secretary of Defense and the then Secretary of State, and to the Chairman of the Joint Chiefs, who came in and told us these stories which were not true.

But that is beside the point here. I do not think that the Gulf of Tonkin resolution is a valid grant of authority, if the President had the constitutional right to do that. I do not think he did. I think it was a denigration of the Constitution, and an infringement of the right of the Senate to play a role in this matter, and of Congress to declare war.

Mr. BYRD of West Virginia. Mr. President, the able Senator from Arkansas states that the amendment offered by myself and others "injects the question of the Commander in Chief's authority," or words to that effect.

Mr. President, the language which I am seeking now to utilize does make reference to the constitutional power of the President as Commander in Chief. The Senator from Arkansas will, of course, vote against my amendment, because he feels quite sincerely that it injects the question of the authority of the Commander in Chief.

I think that paragraph (1) of the Cooper-Church amendment injects the question of the authority of the Commander in Chief. It does not do so in so many words, admittedly, but I think that the authority of the Commander in Chief under the Constitution is sought to be inhibited—at least the attempt is being made to inhibit, proscribe, circumvent, or diminish it by that language.

So I do not concede at all, I do not agree at all, that the question with respect to the authority of the Commander in Chief has been injected by the Byrd amendment. Not at all. That question was implicitly injected when paragraph (1) of the Cooper-Church amendment was made a part of the bill before us.

As I say, the Senator from Arkansas will vote against my amendment, because he feels that way about it.

Mr. FULBRIGHT. Could I make—

Mr. BYRD of West Virginia. May I add that although my original amendment, as modified, did not use the words "in the exercise of his constitutional powers and duties as Commander in Chief," that meaning was meant to be implied.

The PRESIDING OFFICER (Mr. HUGHES). Is there objection to the request of the Senator from West Virginia?

Mr. FULBRIGHT. Yes, I object.

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The PRESIDING OFFICER. Objection is heard.

Mr. FULBRIGHT. At least right at the moment I must object, because I must leave the Senate Chamber for the time being.

Mr. BYRD of West Virginia. Mr. President, the modification that I am seeking to bring about today attempts to further nail down any actions by the President in sending forces into Cambodia, which he may deem to be necessary, and anchor such actions clearly in his constitutional powers, authority, and duties as Commander in Chief, whereas the original amendment which I offered—and which will be voted on up or down, unless I am permitted to offer this additional modification—simply says "except that the foregoing provisions of this clause shall not preclude the President from taking such action as is necessary." It does not say anything about the "constitutional" powers of the Commander in Chief. It could be interpreted to mean his authority and power under the Tonkin Gulf resolution. But I am trying to get entirely away from that in my modification of today, and refer only to his authority, powers, and duties under the Constitution.

This modification, it seems to me, is an improvement even from the standpoint of the Senator from Arkansas, if I may say so.

Mr. CHURCH. Mr. President, will the Senator yield for a question?

Mr. BYRD of West Virginia. It seems to me to be an improvement on my original language.

I yield to the Senator from Idaho.

Mr. CHURCH. First, I also regard the modification that the Senator now proposes as an improvement over the original modification. That is not to say that I endorse or support the new modification; I hope to explain my reasons during the course of the debate. I would like to ask certain questions for the record, so that we may clearly understand just what it is that the Senator from West Virginia has in mind in proposing this new language.

He said earlier—and this is the basic trouble with any amendment of this sort—that it is neither within our power to add or detract from such authority as the President, as Commander in Chief, may have under the Constitution. Is that not correct?

Mr. BYRD of West Virginia. Essentially that is correct. And it is also correct that the Senator from Idaho has said the same thing.

Mr. CHURCH. Yes. We are in agreement on that proposition.

If it is true that it is not within the power of Congress, regardless of what language we adopt—either to add to or detract from the constitutional powers of the President as Commander in Chief—why is it necessary to write an exception into this amendment at all?

Mr. BYRD of West Virginia. The Senator asks a good question. If it is true that we, by statute, can neither enlarge nor contract the President's powers, authority, and duties under the Constitution as Commander in Chief—and we both agree that we cannot—then why

will the Senator not accept my amendment? It does not add to or enlarge, it does not increase—and could not—the constitutional authority, powers, or duties of the President. So why does the Senator not just accept it? That is a rhetorical question.

Mr. CHURCH. Yes; the Senator answers my question by asking his own. However, I am prepared to answer the Senator's question. It is just a matter of who goes first.

Mr. BYRD of West Virginia. All right; let the Senator from West Virginia try to answer the first question. The Senator from Idaho asked the first question.

Mr. CHURCH. All right.

Mr. BYRD of West Virginia. He asks, why do we put this exception in?

Mr. President, I thought I had answered the question when I made my statement on June 3.

The language in paragraph (1) of the Cooper-Church amendment, in connection with certain language in the preamble, in my judgment, would seek to restrict the President and inhibit, or would seek to prevent him from duly exercising his authority, his powers, and his duties under the Constitution to protect American troops in South Vietnam if it became necessary to do so by retaining U.S. Armed Forces in Cambodia. The Cooper-Church language seeks to do that by cutting off funds.

The U.S. Government has sent many American boys to South Vietnam. Over 400,000 of them are there now. They did not ask to go. Most of them are there through no choice of their own, and I feel that it is the duty of the Government to do everything it possibly can to protect their lives while they are there.

I can envision a time, on down the road beyond June 30, when the President, because of the exigencies of the moment, might have to take action by sending American forces back into Cambodia in order to protect the lives of American servicemen in South Vietnam. I do not wish to tie his hands in such an event, and this is why I have offered the amendment to paragraph (1).

That is the only paragraph which my language would attempt to perfect. So that the Cooper-Church amendment, as modified, would then read to the effect that hereinafter no funds shall be expended through this act or any other law for the retention of U.S. Armed Forces in Cambodia, except and only if the President determined it to be necessary for the protection of U.S. troops in South Vietnam.

So I seek by this amendment to make clear that the Cooper-Church language will not preclude the President, through a cutoff of funds, from taking action necessary to protect our men in South Vietnam—acting always, of course, within the ambit of this constitutional authority, powers, and duties.

I have been concerned about the Cooper-Church amendment since it was first brought to the floor. I see a great deal of good in it. I think it reflects a concern which we all share in the Senate. I think we all want to see American

servicemen withdrawn from all of Southeast Asia as soon as it is possible to do so. I think we all want to avoid American manpower involvement in another war, in a new war, in a war against Cambodia, in a war for Cambodia, in a war in support of any Cambodian government. But I think we all also want to do everything to protect our servicemen who are in South Vietnam. It does not make any difference how they got there or who put them there. They are there, and I think we all agree that we want to do everything we possibly can to protect them and get them home.

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

Mr. BYRD of West Virginia. Not yet. I will be glad to yield in a moment. I am attempting to answer the question of the Senator from Idaho.

So it was as a result of a very deep concern on my part that I sought to devise some language which would assure both our own fighting men in South Vietnam and the enemy that the President's constitutional authority, powers, and duties are not going to be contracted or diminished by any cutting off of funds as long as he determines it to be necessary to take action to protect our men in South Vietnam.

As I have said, I want to vote for the Cooper-Church amendment. It has much in it that is good. It is calculated and designed to keep us from becoming involved in another Vietnam. But I am afraid of paragraph (1). It is for these reasons I have introduced the language if I may say so, in answer to the question by the distinguished Senator from Idaho.

Mr. CHURCH. Mr. President, the Senator from West Virginia has given a very thorough answer. I understand his motive, and I respect his point of view.

We are agreed on at least two very important premises. The first is that it is not within the power of Congress to abridge the President's constitutional authority as Commander in Chief to protect American forces in the field, whatever that authority may be. Second, we do not want to place American troops in the field in any added jeopardy by legislation.

Since we are in full agreement on those two propositions, I think we can find the language which will make it possible for us to converge on the same course.

I want to tell the Senator why I worry—though I concede that the new language is more acceptable to me than the former language—why I still feel so strongly that we could make a serious mistake in affixing an amendment of this kind to the Cooper-Church proposal. That mistake would have nothing to do with the purposes sought to be served by the Senator from West Virginia. However, if we adopt the Cooper-Church amendment in its present form, without making any congressional reference whatever to the constitutional authority that the President may possess as Commander in Chief, and if he decides later to order American forces back into Cambodia, he will have to justify that action to Congress and to the American people, as a legitimate exercise of his own au-

thority. That is proper. The President would be less likely to order a return to Cambodia in force for any lengthy period of time, if he had to rest his case upon his sole authority as Commander in Chief to protect the troops. In other words, the action he would take under that authority would be circumscribed, it would have to be reasonably and directly related to the needs of our troops in the field.

But, on the other hand, if we adopt this language, then we assume the risk that, at some later date, the President may point to it as having somehow conferred in advance congressional consent upon whatever he decides to do in Cambodia, as long as he acts in the name of protecting American troops in the field.

There is a very good reason for us to be concerned, having behind us the Tonkin Gulf resolution experience. We passed that resolution because we thought we were giving our approval to a reprisal against certain torpedo boats that we were told had attacked an American destroyer at sea. Concurrently, the President was assuring Congress and the country that he had no intention of sending any Americans into combat in Vietnam. A few months later, however, the President changed his mind and ordered a huge expeditionary force into Vietnam, committing us to war on the Asian mainland. Congressional approval, the President said, had been given by the Gulf of Tonkin resolution.

As proof that Congress had authorized his action, how many times were we shown that resolution?

This is the reason why we are extremely wary of writing into this bill anything which might later be interpreted as constituting prior consent on the part of Congress to whatever action the President may take in the name of protecting American forces in the field.

That is the basis of the difference between us. Yet, when the Senator confines his exception to the constitutional authority the President may have as Commander in Chief, he does improve upon the language, in my judgment.

Mr. BYRD of West Virginia. The Senator from Idaho made reference to that future exigency which would cause the President to come back to Congress under this bill, as not modified by the Byrd amendment. The Senator from Idaho said that the President would then have to justify to Congress his actions in sending men into Cambodia for the protection of American troops in South Vietnam.

What the Senator is saying, if I may interpret in my own way, most respectfully, is that he would have the President come to Congress, and justify his constitutional authority. That is what, in essence, it would amount to.

Mr. CHURCH. What I had intended to convey was this: If we make no reference in this amendment to the President's constitutional authority as Commander in Chief, leaving the Cooper-Church amendment in its present form, then the President, later on would have to base a return to Cambodia on his own authority as Commander in Chief and

demonstrate that his action stemmed directly from a need to protect our forces in the field. Under these circumstances, he would be much more careful to take only those actions that could be reasonably justified. If we add the Senator's language to the Cooper-Church amendment, however, we may later have the President interpreting it as having given him advance congressional consent for much larger operations, in effect, for expanding his authority, as long as they are taken in the name of protecting our troops in the field. That is the distinction I am trying to draw.

Mr. BYRD of West Virginia. The Senator has a right to interpret the Byrd amendment in that way, but I do not interpret it as in any way giving the President, or attempting to give the President, or claiming to give the President, or assuming to give the President any authority that he does not already have under the Constitution of the United States. I think that what the Senator from Idaho is saying is that implicit in the words of the Byrd amendment is some new authority. Mr. President, there is no new authority and none can reasonably be read into the Byrd amendment.

As I view the respective constitutional authority of the President, as against that of the Congress, under the Constitution, each operates in its own sphere. I think each is supreme in its own sphere. It seems to me that what the Cooper-Church amendment would say, in paragraph 1, if not amended, would be that each is supreme in its own sphere, but before the President can properly act to carry out his constitutional authority, within his own sphere, he must come over into our sphere and get our approval, else he cannot properly exercise his authority within his own sphere to act as Commander in Chief.

Of course, Congress has the power over the purse. It can cut off funds for the military or for anything else. If it does that, it is restricting the power of the President as Commander in Chief under the Constitution and just as effectively, in my judgment, as if Congress had passed a constitutional amendment doing that—which it cannot do—which only the people of the United States can do.

Mr. FULBRIGHT. Mr. President, will the Senator from West Virginia yield for clarification?

Mr. BYRD of West Virginia. I yield.

Mr. FULBRIGHT. Is he suggesting that it is unconstitutional to cut off funds?

Mr. BYRD of West Virginia. No.

Mr. FULBRIGHT. I do not think that I get the significance of that last remark the Senator made, "as effectively as if we had passed a constitutional amendment."

Mr. BYRD of West Virginia. Yes, yes.

Mr. FULBRIGHT. What is the meaning of that?

Mr. BYRD of West Virginia. What I meant was—

Mr. FULBRIGHT. It leaves the implication that we are in some way, without justification, impinging upon his right as Commander in Chief.

Mr. BYRD of West Virginia. I think we would be in this instance.

Mr. FULBRIGHT. I do not think we are at all.

Mr. BYRD of West Virginia. I think there is a twilight zone here.

Mr. FULBRIGHT. I do not quite understand that concept. Take the passage of a law—

Mr. BYRD of West Virginia. One question at a time, please. The Senator from Arkansas is a very skillful debater. He asks a question, and before his opponent can attempt to answer the question, he asks a second question and then a third question, and then gives a lecture; and by that time, of course, his opponent has forgotten what the first question was all about.

Mr. FULBRIGHT. Note the Senator from West Virginia. He has the best memory of any man in this body, and in more ways than one. I have seen demonstrations of it.

Mr. BYRD of West Virginia. I thank the able Senator. He is always most courteous and overly generous. But, Mr. President, what I am attempting to say is that the Constitution can only be amended through procedures as outlined in article V of the Constitution.

Mr. FULBRIGHT. That I agree with.

Mr. BYRD of West Virginia. And that the President, under article II of the Constitution, has certain powers and duties.

Mr. FULBRIGHT. They are uncertain, according to this debate.

Mr. BYRD of West Virginia. They are uncertain. But—assuming just for the sake of argument—that he had the constitutional authority and duty to send men to Cambodia on a temporary basis—

Mr. FULBRIGHT. Well now—

Mr. BYRD of West Virginia. If the Senator will allow me to assume this, just for the sake of my argument, I am assuming that the President acted within his constitutional authority and duty in doing what he did. There are other Senators here, opposed to my amendment, who do not argue with that. The Senator from Arkansas will.

Mr. FULBRIGHT. Yes, that is quite right. I do.

Mr. BYRD of West Virginia. I am assuming that the President can do it again, if confronted with the same set of circumstances, and that he would be acting properly within the ambit of his constitutional authority and duty. But, to do that, even for the purpose of protecting the lives of our men in South Vietnam, he has to have money.

We cannot here amend the Constitution to say that the President has more authority or that we will take away from him certain constitutional authority. We cannot do that. But we can say there will be no money. And we shall have just as effectively, if we do that, prevented him from carrying out his constitutional authority and his duty, as if we had taken a stroke of the pen and amend the Constitution. It takes money to "retain troops." And that is precisely what paragraph (1) of the Cooper-Church amend-

ment is getting at. It is getting at the milk in the coconut, the money.

Mr. FULBRIGHT. Mr. President, does the Senator mean by that that we are not justified in using that power if we choose to do so, if our judgment is that he is exercising his power—rather than authority—in a way that is inimicable to the interest of our country.

Mr. BYRD of West Virginia. The Senator from West Virginia is saying that Congress can cut off the money. It has the power of the purse. The Senator from West Virginia is saying that he thinks it would be unwise in the midst of a shooting war when the lives of our soldiers are in danger in South Vietnam to cut off funds for the President to use in the exercise of what he sees as his proper constitutional authority and duty; namely, the protection of American forces in South Vietnam.

Mr. FULBRIGHT. Mr. President, the Senator has now shifted, and I think properly so, to the question of the wisdom of the action, rather than constitutional authority.

Does not the Senator feel that if he is really interested—and I know he is, as I am—in protecting the lives of the soldiers, that he should bring them home instead of putting them in Cambodia?

This is where we have difficulty.

Mr. BYRD of West Virginia. Mr. President, may I answer the question before the Senator goes on to another one?

Mr. FULBRIGHT. Yes.

Mr. BYRD of West Virginia. Mr. President, I have heard it said that a military withdrawal is one of the most difficult of all maneuvers.

Yes, I would like to see our men brought home. I would like to see them come home tonight, tomorrow, or next week. But I do not believe that they can be brought home instantly, and as long as they are there I think that the President has a duty under the Constitution to do whatever he can do to protect their lives while they are in the process of withdrawal, however gradual. But if he does not have the money to perform his duty and authority and to do what he feels is necessary in order to protect American lives, then he is prevented from doing so just as effectively as if his authority under the Constitution had been abrogated by constitutional amendment. What good is authority if it cannot be used when needed?

Mr. FULBRIGHT. Mr. President, if the Senator would allow me to interrupt, as to this business of retreat, and so on, no one is suggesting that our troops leave instantaneously. But on the other hand there is no great mystery about how to end the war. The French ended a similar war in 1954. In the course of approximately 2 months after they had made up their minds that it was not in the interest of France to continue with that war, they liquidated the war and got a cease-fire and all of the killing of their soldiers stopped. The withdrawal took some time. But there was no further killing of their soldiers. It went off in a most orderly way.

This is the alternative I was suggesting if the President is interested in protecting the lives of his soldiers, rather than

in procuring a military victory. What bothers me is what the President actually does, as opposed to what he says. His actions are designed to achieve a military victory.

This is the kind of policy that the Senate ought to be consulted about. We ought to be told and we ought to be asked in the form of a declaration of war whether or not that is a good policy for the country.

I submit that it is an absolutely false doctrine to say that as Commander in Chief, and because he inherited a war, he has the unlimited power to go into Cambodia or into any other country.

He says he is not relying on the Gulf of Tonkin joint resolution. I was told in committee hearings that he is using his authority to bring the soldiers home. And the country accepted that until he moved into Cambodia.

The Senator knows that the reaction of the country to that move was an interpretation that he is expanding the war. This changes the whole character of the war.

The Senator now wants to change the amendment to have the effect of saying that the President's authority as Commander in Chief authorizes him to do anything he pleases.

The Senator has already said in the debate that the two sponsors of the Cooper-Church amendment admit that he has the power as Commander in Chief to move into Cambodia. I reject that.

The President himself recognizes some limits. Why did he say, "I will go only 21 miles." The Constitution does not say that. He recognized that there was a different situation there, or he would not make a speech and say, "I will go only 21 miles."

Now he is beginning to expand this. Every time a new speech comes along, there is a change in the circumstances.

If one accepts the theory that as Commander in Chief he can do anything that, to him, seems appropriate, there would be no limit. It is exactly what Abraham Lincoln said, that there would be no limit. We would have a scrapping of the Constitution.

The purpose of the Constitution is not to restrict anyone. But it does require a sharing of responsibility.

I think it is a sound principle.

I think it would be a great tragedy if the Senate gave up its responsibility to debate subjects which involve the lives and property of the people.

This is the whole issue: Should the Senate abdicate its responsibility and say that as Commander in Chief the President can do as he pleases any time he can say that it is to protect the troops? Under the Byrd amendment, that would be all that he would need to say.

This is an absolutely new doctrine. I never ran across this when I was in school. I never ran across the matter of the powers of the President being such that he could invade a country if he says it is to protect the troops—a country with which we had not heretofore been at war. I do not think it is sound at all.

I think it would be a great mistake to put the Byrd language in the Cooper-Church amendment. The Senator may

very well have the votes. If he is going to put something in the amendment, I would much prefer that he put in the language which does not go to the constitutional issue.

The Senator's amendment guts the Cooper-Church proposal.

It waffles around with these constitutional responsibilities and duties and leaves greater uncertainty. It is a very dangerous thing.

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

Mr. BYRD of West Virginia. Mr. President, if I may respond to the Senator from Arkansas, I will then yield to the Senator from Kentucky.

First of all, the Senator makes reference to the President wanting a military victory. I do not believe that the President is expecting to achieve a military victory. But my amendment has nothing to do with a military victory in South Vietnam. I do not think that the President expects to achieve that. I do not think that any of us expect it.

Mr. FULBRIGHT. Mr. President, may I ask a question?

Mr. BYRD of West Virginia. In a moment. Second, the able Senator would have us believe that the Byrd amendment recognizes possession by the President of "unlimited power to go into Cambodia or into any other country."

This amendment does not attempt to identify or to define or to interpret the powers of the President. And, of course, the President does not have unlimited power to go into Cambodia.

His powers are not infinite under the Constitution. They would have to be infinite if they were unlimited. There is a limitation on his powers.

The President cannot do anything which to him seems appropriate under this amendment?

Mr. FULBRIGHT. Why not? I do not understand why not.

Mr. BYRD of West Virginia. Because the President is not the judge himself.

Mr. FULBRIGHT. Who is? Who does judge?

Mr. BYRD of West Virginia. The President is not the sole judge of where the constitutional line is drawn. The Supreme Court has been known to declare a President's acts unconstitutional.

Mr. FULBRIGHT. If he does not judge what is necessary to protect the lives of soldiers, who does judge? With the language of your amendment, we do not.

Mr. BYRD of West Virginia. The amendment which I have offered does not attempt to interpret or define where the Constitutional line is. It simply states he shall not be inhibited in his constitutional authority to protect our troops in South Vietnam.

Mr. FULBRIGHT. It leaves it up to him.

Mr. BYRD of West Virginia. Then, who is to be the judge under the Constitution? Will 100 Senators act as Commander in Chief?

Mr. FULBRIGHT. That is what the Senator is saying; that the President as Commander in Chief is the judge. It is a new theory.

Mr. BYRD of West Virginia. The Senator opened up an entirely new vista of discussion here when he said he would rather vote on my first amendment than on the modification because the first version would gut the Cooper-Church amendment.

Mr. FULBRIGHT. That is correct.

Mr. BYRD of West Virginia. The Senator surely does not want the Cooper-Church amendment gutted.

Mr. FULBRIGHT. No, I would oppose that.

Mr. BYRD of West Virginia. Then why the preference for my first amendment if it would gut Cooper-Church? I do not want to gut the Cooper-Church amendment; I want to improve it.

Mr. FULBRIGHT. I am against both of them. As long as you are going to gut it, do it correctly, where it is obvious to everyone; do not fuzzle it up. The second one is more insidious because it uses language about constitutional authority and the Commander in Chief and asks that he consult with us. They consulted with us before and they did not tell the truth.

Mr. BYRD of West Virginia. What the Senator is saying is that the Senator from Idaho, who is a cosponsor of the Cooper-Church amendment, in stating the second amendment is an improvement on the first amendment, although it is more "insidious" and "fuzzy."

Mr. FULBRIGHT. That is right.

Mr. BYRD of West Virginia. The modification guts it, but it is not as "clear" in gutting it—even though the Idaho Senator says it is an improvement. Mr. FULBRIGHT. It fuzzes it up.

Mr. BYRD of West Virginia. The Senator is calling into question the stated position of the Senator from Idaho.

Mr. FULBRIGHT. I have been here longer and I am more skeptical than he is. He has more faith than I. I have been here twice as long as he has been here, and I have been through a number of these things before, and I know how this kind of language can be brought up later on and thrown in your face.

To say it is up to the President to say what he may do at any time, anywhere, is a new concept. I do not want to be a part of that history making. I played a part in the Gulf of Tonkin resolution. I did not have the skepticism then. I did not believe the President would misrepresent the facts to a committee, but I have learned better.

I do not want to leave the wrong impression. I am just as strongly against the proposed amendment as I am against the modification. If the Senator is going to prevail, which he may because of his influence in this body, I would want him to prevail on his original amendment and not the modified amendment. Then, the matter would be clearcut. If this language goes in, we will never know and we will be confronted with a continuing interpretation of the powers of the Commander in Chief. This is such a new concept, used in this context, that I do not believe it would be wise at all. The more I think of it the more I think we should have a vote on the original amendment.

There is one other matter the Senator mentioned.

Mr. BYRD of West Virginia. Mr. President, before the Senator goes on, if the Senator wishes us to vote on the original amendment he has the power to decide. The Senator would simply object to the unanimous-consent request that I modify my amendment.

Mr. FULBRIGHT. I thought I did object.

Mr. BYRD of West Virginia. Then, we could vote on the original.

I have acted in good faith in trying to develop language which would meet the legitimate concerns of several Members of this body. I have sought to improve the amendment and in some way bring us at least part way toward the position that has been taken by the sponsors of the Cooper-Church amendment. I have tried to tighten up the original language of my amendment by tying it clearly to the constitutional authority, powers, and duties of the President—leaving aside entirely any legal authority which he may or may not have.

If the Senator feels that he would like to object to my unanimous-consent request I shall have to stay with the old language, and the Senate can vote on it.

Mr. COOPER. Mr. President, will the Senator yield to me for one moment on this point?

Mr. BYRD of West Virginia. I yield.

Mr. FULBRIGHT. Surely.

Mr. COOPER. Mr. President, I think we have argued for 2 or 3 days in a circular way the question of the authority of the President as Commander in Chief to protect our forces.

All agree he has that authority; that the Congress cannot take it from him or give it to him. The question is then asked, "Why cannot it be written in the amendment?"

The obvious answer is that we do not need to write it into law—it is his constitutional authority. But if we write it into law, then Congress accepts all of its consequences.

Earlier today the distinguished Senator from New York (Mr. JAVITS) spoke on the floor of the Senate about the first Byrd amendment, and I wish to read to the Senate two of his sentences that I think apply to this matter:

I believe that passage of the Byrd Amendment would amount to Senate acquiescence in this position—that is, the President enjoys such powers as Commander-in-Chief as he defines them to be. I believe that this could undermine our whole constitutional system and lead the nation into grave new crisis at home and abroad.

I believe the Cooper-Church, or Church-Cooper amendment, and the amendment of the Senator from West Virginia have different purposes. Our purpose is to place some check upon the power of the President with respect to Cambodia. In subsection 1 it states that forces shall not be retained in Cambodia after July 1. We do not mention the President's constitutional powers.

If, in fact, our forces should come under sudden attack in Cambodia, the President would have the same power. We say, that absent that kind of situa-

tion U.S. forces should not be retained in Cambodia without coming to Congress.

Also in sections 2 and 3—

Mr. BYRD of West Virginia. The Senator cannot have it both ways.

Mr. COOPER. I believe we can. Either we will give up every bit of authority in the warmaking field, at minimum, we should assert that in some cases Congress has joint authority.

The Senator has worked very hard on this matter. I know that he is an able lawyer and thorough student. We have talked about this matter many times. However, I think if some limits are not asserted we will end up finding there is no limit.

Mr. FULBRIGHT. Will the Senator yield?

Mr. COOPER. We are urging, in line with the President's policy to end the war in Vietnam, to put the brakes on so we will not become embedded in Southeast Asia.

Mr. BYRD of West Virginia. Mr. President, most respectfully I interpret what the Senator says as having the best of two possible worlds. He says the President could, in an emergency, even in the face of the enactment of the Cooper-Church amendment, utilize the "same power" as he did on April 30.

Mr. COOPER. No.

Mr. BYRD of West Virginia. The Senator did not say that?

Mr. COOPER. No. I said if they were in Cambodia and came under sudden attack on June 30, of course he would have the power.

Mr. BYRD of West Virginia. Yes.

Mr. COOPER. Once out of Cambodia, I do not believe he should go back.

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

Mr. BYRD of West Virginia. I yield.

Mr. CHURCH. Mr. President, the key word is "retaining." That word was used advisedly. The amendment provides that funds are not available to retain American forces in Cambodia after the end of June.

Mr. BYRD of West Virginia. Is the Senator saying that if this bill is still being debated on July 1, he is willing to drop the paragraph (1) if all the troops are out? There would then be no troops in Cambodia to "retain." Would the Senator then be willing to delete that language?

Mr. CHURCH. The word "retain," as the debate has clarified, was used to serve two objectives: First, to make it clear that the Congress believed American troops should not stay in Cambodia after the end of June; and, second, to allow for those particular occasions that might arise where the President, in the exercise of his constitutional authority as Commander in Chief, might have to make a sudden strike into Cambodia in order to effectively protect American troops near the border. That is why we used the word "retain." We meant for it to cover both situations.

Mr. BYRD of West Virginia. What does the Senator mean by a "sudden strike"? Could not a "sudden strike" be one which would take us into Cambodia and "retained" there for 2 weeks, 4

weeks, 6 weeks, or 3 months? It would have been "sudden strike" and armed forces would have to be "retained" in Cambodia—without funds for their retention.

Mr. CHURCH. No. What I meant by "sudden strike" was an occasion where an enemy staging area, for example, was being utilized to concentrate troops and materiel for an imminent attack on American troops across the border. Under circumstances of that kind, in order to protect effectively our forces across the border, it might well fall within the President's authority to strike the sanctuary, clean it out, and withdraw again. That is why we used the word "retain". We felt that if the President decided later to go into Cambodia in force, with the intention of staying, that would be a decision so significant that it would redefine the theater of war. Properly, the President should come before Congress, make his case, and secure congressional consent.

Mr. BYRD of West Virginia. My amendment does not say he could go back into Cambodia.

Mr. FULBRIGHT. But the language does not say he could not, either.

Mr. BYRD of West Virginia. It says paragraph (1) shall be effective except when the President determines it necessary to protect the lives of American troops in South Vietnam.

Mr. CHURCH. Paragraph (1) is a prohibition against retaining troops in Cambodia. The Senator's language goes on to say, in effect, except where the President, acting as Commander in Chief, decides to remain in Cambodia in order to protect American troops in South Vietnam.

His language, even his modified language, would create an opening in the Cooper-Church amendment that could conceivably be cited to authorize a return to Cambodia for an extended period of time.

Mr. BYRD of West Virginia. My language does not authorize anything that the President is not already authorized to do. It merely prevents the Cooper-Church language from attempting to preclude the proper exercise of his constitutional authority. It does not authorize anything new.

Mr. CHURCH. In a legal sense, the Senator is quite correct; it does not confer any new or added power to the President. We are involved here in a question of political power. If the modified language of the Senator's amendment is adopted, we will have given the President a political tool to justify future action. If we do not pass it and leave the bill silent, then he will have to base any future action upon inherent power, in which case he will have to make certain that the action is directly and intimately related to the protection of our troops in the field.

From the political standpoint, I am fearful this language will be seized upon as giving prior consent to whatever he does. In view of our experience with the Gulf of Tonkin resolution, there is solid basis for my fears.

Mr. BYRD of West Virginia. The real political tool lies in the exercise of con-

gressional power over the purse. The Appropriations Committees, for example, are the only committees in the Senate and in the House which have real power. The power of the purse is the real political tool.

Paragraph (1) of the Cooper-Church amendment, as written, and if unamended, would seek to use this real, raw political tool—the power of the purse—to contract, to diminish, the constitutional authority and power of the President of the United States, acting as Commander in Chief, to take necessary action to protect the lives of American servicemen in South Vietnam. It would say, "You may do this or that, but first of all, you have to go back to the money bag."

Let us lay this right out on the table and bare it to the scrutiny of everyone's eyes. The language in paragraph (1) of the Cooper-Church amendment says, "Mr. President, you may retain troops in Cambodia after June 30 only if you come back to Congress and, through the enactment of a new law, get appropriations with which to pay those troops." In essence, that is what it says. It does not matter that an emergency may require quick action to protect American lives in South Vietnam.

We all know the circuitous route by which an appropriation bill becomes law. The President could be confronted with an emergency situation. He might have to act, and it would be his duty to act, as Commander in Chief under the Constitution, to protect our men. But the action that he would have to take might require him to go back into Cambodia. There could be the same set of circumstances under which he went in on April 30 to protect our troops. Our troops might stay 60 days again the next time. But he has to first go to Congress under paragraph (1) of the Cooper-Church amendment. First, there has to be a budget estimate. Then there has to be a hearing on the appropriation bill. Then there has to be a discussion by the committee during the markup of the appropriation bill. Then, if the bill is reported, it has to run the risk and the gauntlet of the 3-day rule. Then it has to be debated on the floor of the Senate.

It seems to me that what we are saying to the President is, "You just can't do it," because the enemy would have had ample time to fold up its tents, remove its men, weaponry, military materiel, and ammunition, and move out, or it would have had ample time, if it chose to do so, in which strike and attack our men while all of this discussion and all of this debate was going on as to whether or not we should appropriate the funds. We are not cutting off his authority, the sponsors of the Cooper-Church Amendment say—no, but we are cutting off the money. What is a more effective "political tool" than money?

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

Mr. BYRD of West Virginia. I yield.

Mr. PERCY. I, first of all, want to make clear that I have no objection to the modification of the language the Senator from West Virginia would like to introduce, and I hope he will be permitted

this evening to modify the language in accordance with his own wishes, to improve and modify his original intention.

Second, I have been concerned somewhat about subparagraph (1). I think there can and should be an exception made.

I have an amendment which would not affect our vote tomorrow, but which I would like to send to the desk this evening for consideration of our colleagues should the distinguished Senator's amendment fail tomorrow. I would need about 60 seconds to submit it, and would very much appreciate knowing about when it might be appropriate for me to do that this evening.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may yield to the Senator from Illinois for the purpose which he has outlined, and that he may be recognized for not to exceed 3 minutes.

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

Mr. PERCY. I thank my distinguished colleague very much indeed.

AMENDMENT NO. 686

Mr. President, in this debate on the Cooper-Church amendment and the Byrd amendment, we confront a variety of important considerations. These considerations include the desire of the President and the American people to shorten, rather than expand the war; the question of the related responsibilities of the President and the Congress in the war-making process; and the concern of everyone in the executive branch, the Congress, and the country for the safety of our forces in Vietnam.

It is my own feeling that we should not expand the geographic scope of the war, and that the President's promised total American withdrawal from Cambodia as of June 30, 1970, should be endorsed by Congress.

This is the time for such an endorsement. It is also the time for Congress to reassert its constitutional prerogatives to share with the President in war-making decisions.

These objectives—endorsing the President's plan for withdrawal from Cambodia by June 30 and reasserting the constitutional prerogatives of the Congress in war-making can be achieved by an amendment to the Foreign Military Sales Act which will take into full consideration the safety of our forces in Vietnam.

I now send to the desk an amendment which would disallow the commitment of U.S. forces to Cambodia unless it were necessary to respond to a clear and direct attack upon forces of the United States from Cambodia.

It is my hope that the language of this amendment would be satisfactory to the Senator from Kentucky (Mr. COOPER), to the Senator from Idaho (Mr. CHURCH), and to the President, who share our concern for peace, for constitutional balance, and for the safety of our American men in Southeast Asia.

The amendment reads simply as follows:

On page 5, line 7, strike the words "(1) retaining United States forces in Cambodia" and insert the words "(1) having United

States force in Cambodia except where the use of such forces is necessary, pending Congressional approval, to respond to a clear and direct attack upon forces of the United States from Cambodia."

Its purpose is simply to insure that we send a direct and definite message from the Congress of the United States and from the President to the North Vietnamese that, should they go back in and use these sanctuaries for the purpose of launching an attack upon us, we in Congress, forthwith and in advance approve the President's moving in to protect our forces and the program of withdrawal from Vietnam, but that the President, after he responded to that, would come back to Congress for our assent to or disapproval of the action that is taken, and for whatever debate would be required.

Clearly I have certainly been influenced by the eloquent discussions by the distinguished Senator from West Virginia that there should be some exception in this case, and the exception we are trying to provide and protect the country and our forces against is the use of those areas for an attack upon us. That is as simple and clear as I can make it.

Mr. BYRD of West Virginia. Exactly.

Mr. PERCY. I thank my distinguished colleague.

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

Mr. BYRD of West Virginia. I yield to the Senator from Virginia.

Mr. SPONG. Mr. President, I thank the Senator from West Virginia.

I think it is important that we establish legislative history here. I shall try to phrase this question so that it applies to either the amendment or modifications that the Senator from West Virginia has submitted—both to the amendment he submitted on last Wednesday and the modification he submitted today.

The Senator from West Virginia has said that neither of his proposals adds anything to the constitutional authority of the President of the United States. I would be interested in the views of the Senator from West Virginia as to the constitutional authority of the President of the United States at the present time, specifically with regard to situations that I outlined in a series of questions on yesterday. These questions are five in number. They are printed on pages S8687 and S8688 of the June 9 RECORD.

I might say to the Senator from West Virginia that earlier in the day both the Senator from Kentucky (Mr. COOPER) and the Senator from Idaho (Mr. CHURCH) gave their views on these five situations.

I believe that, whether or not any of the pending amendments are adopted, we would do well to have in the RECORD the answers to the questions from the sponsor of all the amendments.

Mr. BYRD of West Virginia. Very well. Would the Senator like to restate the questions?

Mr. SPONG. I would be pleased to do that.

I should like to know if the language of the Byrd modification contemplates the President's right—and rather than

"right" I will substitute "authority," in view of our discussion earlier—authority, as Commander in Chief, to do the following, under the language of the amendments, or if the Senator feels that the President already has that authority under the Constitution: First, To prevent enemy forces from crossing the border into South Vietnam and to pursue and destroy such forces as they attempt to leave South Vietnam for Cambodia? This contemplates a distance into Cambodia of no more than 2 or 3 miles.

Mr. BYRD of West Virginia. Mr. President, first I emphasize again the premise which the able Senator from Virginia has already recognized—to wit, that the Byrd amendment, whether we are talking about the modification before the Senate or about the modification which, under the previous order, is to be voted on tomorrow, authorizes nothing new. It adds nothing new. Whatever the President may do in the future, in the event either modification is accepted, he could have done just as well without the enactment of either.

This brings me to this method of attempting to answer the Senator's question: I am saying, in answer to all four or five questions, that my amendment really has no bearing on them, because it does not add any authority to what the President already has as Commander in Chief under the Constitution.

Mr. SPONG. I would respectfully disagree with the Senator from West Virginia. I believe that what the Senator is adding is language that could be subject to interpretation, and that in both his first modification and his second modification there is language which, should the Cooper-Church amendment be enacted by the Senate, could give the impression of additional discretionary authority to the President of the United States.

Mr. BYRD of West Virginia. Mr. President, of course all of this language is subject to definition. The language in the Cooper-Church amendment is, likewise, subject to definition and interpretation. The lawyers will interpret it. They will argue about it. They will disagree with respect to the language in the Cooper-Church amendment. So, indeed, any language that we put in, call it the Byrd amendment or anyone else's amendment, is going to be subject to definition by someone, subject to interpretation, and subject to disagreement among the authorities.

But, Mr. President, my amendment does not authorize anything. Take, for example, the Formosa resolution. It was a joint resolution "authorizing" the President to do something. Take, for a further example, the Middle East resolution. It was a resolution that the President "be and hereby is authorized" to do something.

My amendment does not "authorize" the President to do anything. It merely makes an exception in the thrust of paragraph (1) of the Cooper-Church language and defines as well as it can the circumstances in which that exception will be made. The President, acting under the Cooper-Church language, as amended by my amendment, would be

acting within his constitutional powers as Commander in Chief, not through any authority granted by my amendment.

Mr. SPONG. May I ask the Senator from West Virginia this: If no additional authority is granted by the language, as the Senator says, would the Senator give me his present interpretation of the constitutional authority of the President of the United States with regard to any of these five situations? I will refer specifically to the third one.

Mr. BYRD of West Virginia. May I respond to the first one?

Mr. SPONG. Yes.

Mr. BYRD of West Virginia. The first one was as follows, as the Senator included in yesterday's RECORD:

To prevent enemy forces from crossing the border into South Vietnam and to pursue and destroy such forces as they attempt to leave South Vietnam for Cambodia? This contemplates a distance into Cambodia of no more than 2 or 3 miles.

[Mr. BYRD of West Virginia addressed the Senate. His remarks will appear hereafter in the Extensions of Remarks.]

"The Communist regime in North Vietnam," I repeat. That is the same enemy against which the incursions into Cambodian sanctuaries were made on April 30 by U.S. Armed Forces. That is the same enemy against which I seek to preserve protection for our American servicemen in South Vietnam through the wording of my amendment. But no "second Gulf of Tonkin resolution" is required—Public Law 88-408 refers to Southeast Asia and expressed support and approval of Presidential action to "repel armed attacks"—yes, even from Cambodia—"against the forces of the United States."

Therefore, the Congress has given its advance approval and support of the President, as Commander in Chief, to take all necessary measures to "repel any armed attack" against the forces of the United States "launched from Cambodian sanctuaries." That advance approval was given in Public Law 88-408, as I have already stated. My amendment could not become a second Gulf of Tonkin resolution. In the first place, it does not enlarge the congressional sanction of the use of Presidential authority as set forth in Public Law 88-408. The truth of the matter is the Cooper-Church language would, in effect, seek to negate the Gulf of Tonkin joint resolution—Public Law 88-408—without amending or repealing Public Law 88-408 outright.

Of course, any language is subject to definition and interpretation by the lawyers and by everyone else. The language of the Cooper-Church amendment is not the last word in perfection—I say this with all due respect to the sponsors thereof—and it, too—as I will soon attempt to demonstrate—can be subject to definition. But I believe that the verbiage of my amendment, when taken with my own statements and those of cosponsors of my amendment, leaves no room for doubt as to its intent and meaning. I know that there are those who say that the President might send troops to Cambodia to fight for a Cambodian Government and that he may do so under the guise of acting "to protect U.S. forces in

South Vietnam." But we have to have faith in our President as Commander in Chief, regardless of who he is or what his political party may be, at the time. And it would seem to me that any President, in sending troops again into Cambodia is going to have to make his case, and it will have to be a good one. It will be subjected to the burning scrutiny of every critical eye—and it should be.

Our problem, here in the Senate, it seems to me, is to state with as much clarity as is possible, the intent of the Congress to avoid American manpower involvement in any new war in Asia—such as a war against the government of Cambodia or a war in support of the government of Cambodia—while, at the same time, not infringing upon or weakening, in any way—or appearing so to do—the authority and duty of the President, as Commander in Chief, under the Constitution, to take such action as is necessary to protect the lives of U.S. forces in South Vietnam or to facilitate their withdrawal from South Vietnam.

Mr. President, paragraph (1) of the Cooper-Church amendment has troubled me from the beginning. I want to eliminate American manpower involvement in Southeast Asia—not increase it. I believe that paragraphs (2), (3), and (4) are intended to do this—although paragraph (2) carries a loophole as big as a tunnel—big enough to allow the use of "any U.S. personnel in Cambodia" who engage in "combat activities" so long as they do not do so "in support of Cambodian forces." All the President would have to say, under paragraph (2), in explaining the use of U.S. "personnel" in Cambodia to "engage in any combat activity," is that they are fighting to support South Vietnamese forces—not Cambodian forces. This is my interpretation of the language.

Why do Senators strain at a gnat and swallow a camel? Why do Senators who oppose my amendment—which would permit U.S. ground troops to be used in Cambodia only when necessary to protect the lives of American servicemen in South Vietnam—support the language in paragraph (2) which would permit U.S. personnel to engage in combat activity in Cambodia for the support of South Vietnamese forces? Are U.S. "forces" in paragraph (1) to be distinguished from U.S. "personnel" in paragraph (2)? If so, it is a distinction without a difference as long as U.S. "personnel" may "engage in any combat activity."

But, as I say, paragraph (1) of the Cooper-Church amendment has troubled me from the beginning. I cannot cast a vote to tie the President's hands when it comes to necessary action to protect American troops in South Vietnam—and there are over 400,000 there now. Ask the fathers and mothers and sisters of those 400,000 American men in South Vietnam what should be done. They will say that they want to see their sons and brothers return home as soon as possible but, while they are there, protect their lives.

Mr. President, I had to introduce this amendment. I could not vote for the Cooper-Church amendment without it.

I know of the genuine concern on the part of all Senators with regard to this

matter. As I indicated in my Senate floor speech on June 3, I feel that we in the Senate must take every action within our constitutional power—so long as we do not attempt to preclude the proper exercise of his constitutional powers by the President, acting as Commander in Chief—to avoid American manpower involvement in a new war in Asia, whether it be a war against Cambodia, or for Cambodia, or in support of any Cambodian Government.

I have also indicated that I share the concern of other Senators who believe that the President made a mistake—under the peculiar circumstances of the Cambodian incursion—in not consulting with congressional leaders in advance of the action taken. When I say congressional leaders, I would leave it up to the discretion of the President as to the identity of those congressional leaders. Certainly I would think that the majority and minority leaders in both bodies would fall within the definition.

In any event, in order to reach these legitimate concerns on the part of all of us, and in order to make the intent of my amendment as incontrovertible, as indubitably clear, and as infallibly certain as I can possibly make it, I have asked unanimous consent to modify my amendment No. 667, star print.

I hope that the Senate will adopt my perfecting language. If the supporters of the Cooper-Church amendment really want to see their amendment become law, I may be mistaken, but it seems to me they should get behind my amendment to paragraph (1) and vote to adopt it. The chances of ultimate enactment of the Cooper-Church amendment would thereby be enhanced, I believe.

No, Mr. President; my amendment is no "blank check." And it is not a "second Gulf of Tonkin Resolution." It is a bona fide, good faith effort to eliminate what many of us regard as an unacceptable restriction upon the protection of American servicemen. As I say, the Government sent these men to South Vietnam and it has a duty to do everything it can to protect their lives while they are there.

Mr. President, will the Chair again submit my unanimous-consent request to the Senate?

The PRESIDING OFFICER. Does the Senator renew his request?

Mr. BYRD of West Virginia. I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, is there objection to my request?

The PRESIDING OFFICER. Is there objection?

Mr. CHURCH. Mr. President, the Senator from Arkansas (Mr. FULBRIGHT) objected earlier to this unanimous-consent request. He advised me that he did not intend to withdraw his objection. He remained in the Chamber for a period of time after he made his objection. When he was obliged to leave, he asked me to protect his rights, and I am therefore obliged to object in the name of the Senator from Arkansas.

As the Senator from West Virginia knows, I prefer the modified version of

his amendment that he has offered today to his previous amendment, and it is my hope that tomorrow we can examine this situation further prior to the time for the vote, and perhaps some accommodation can be reached.

The PRESIDING OFFICER. Objection is heard.

Mr. CHURCH. I hope the Senator will renew his offer tomorrow.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator. I hope that tomorrow the Senate will permit me to modify my amendment. As the Senator from Idaho has indicated, it is his feeling—and I share that feeling—that the modification which I now seek to have included is an improvement over my modification of the other day, and I would hope that the Senate would want to vote on what is generally conceded, I believe, to be improved language over that which is before us.

But I will, of course, accept the will of the Senate. I appreciate the reasons why the Senator from Idaho has found it necessary to object this evening.

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

Mr. BYRD of West Virginia. I yield.
Mr. COOPER. I have told the Senator that I would not object to the modification.

Mr. BYRD of West Virginia. Yes.
Mr. COOPER. I continue in that position.

Mr. BYRD of West Virginia. I thank the Senator.

Mr. SPONG. Mr. President, if the Senator will yield, I would like the Record to show that I was present, and I have no objection. I prefer the Senator's second modification.

Mr. BYRD of West Virginia. I thank the able Senator.

Mr. President, I do not ever wish to be in the position, myself, of objecting to a Senator's having the opportunity to modify his own amendment; but this is the right of any Senator, and I had the opportunity before today—as a matter of fact, I had the opportunity before the Senate entered into any agreement—to modify the amendment to my heart's content. But the further modification is the result of further study.

So I hope that the Senate tomorrow will permit us to vote on this modification; but if it does not, we will vote on the first modification, and I may even be constrained to withdraw my unanimous-consent request. We shall see.

I yield the floor.

Mr. ALLOTT. Mr. President, every day I receive numerous letters and memoranda from the academic community expressing interest in, and concern about the current debate over the President's powers as Commander in Chief.

I have recently received an especially interesting document from Prof. Robert Scigliano, a member of the department of political science at the State University of New York at Buffalo.

Professor Scigliano enjoys the high regard of his professionals in political science. His books include "The Supreme Court and the Presidency, Technical Assistance in Vietnam," and "South Vietnam: Nation Under Stress." In addition,

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he is currently doing research directly related to the subject of this current debate—the war powers of the President. In fact, this research will soon result in a book from the reading of which we all will profit.

Professor Scigliano has been kind enough to share with us all some of his thoughts on one relevant aspect of the current debate. He has sent me a fascinating essay on the intentions of the Founding Fathers with regard to the war power. Consider his findings with regard to the Constitutional Convention and the First Congress:

There is considerable evidence that the Framers generally were inclined to view the powers of war and foreign affairs as executive. They did not, by and large, object to having the President possess these powers but were anxious that he not be enabled to launch a war, although they did want him to be able to act in an emergency; and they wished to prevent him from making treaties, especially treaties of peace, on his own authority.

The question of the President's powers arose in the first days of the Constitutional Convention. One of the Virginia Resolutions stipulated that the executive under the Constitution would "possess the executive powers of Congress" under the Confederation (there being no executive branch under that government). Charles Pinckney said he was for a "vigorous executive but was afraid the executive powers of the existing Congress might extend to peace and war, etc.," and John Rutledge plainly objected that "he was not for giving him [the executive] the power of war and peace." By the power of war and peace, as the context makes clear, was meant that of "launching" war and "concluding" peace. The same meaning was usually conveyed in the Convention debates by the expression "make" war and peace, used in the sense of making a law or making a treaty. The point needs some emphasis inasmuch as the use of the term "make" war in the Constitutional Convention is sometimes misunderstood to mean "wage" war. In order to meet these objectives, the delegates amended the resolution to provide that the power of the yet-to-be-organized executive would be "to carry into effect the national laws" and "to appoint to offices in cases not otherwise provided for." But the delegates could not have seriously meant so to limit the powers that could be given the President. Certainly the resolution was never invoked for that purpose, despite occasions on which it might have been, and it quietly passed from view after being referred with other matters to the Committee of Detail in late July. While it was still in existence and before any of the President's powers had yet been decided upon, Gouverneur Morris casually remarked, as though it were self-evident, that the President would be "in possession of the sword."

The question of the President's war power came up again in the Convention, indirectly, in the August debate as to whether Congress' control over war should be expressed as empowering it to "make" war or "declare" war. What the delegates wanted was to give the legislature the power to bring on or establish war (they also debated as to who should be given the power to "make" peace), but some of them saw important nuances of meaning between "make" and "declare." Madison and Elbridge Gerry, for example, feared that power in the legislative branch to "make" war might leave none in the executive branch "to repel sudden attacks," whereas a power to "declare" war would leave the President able to act in an emergency. Roger Sherman, on the other hand, believed the President could still repel attacks under a Congressional power to "make" war, and he feared that a legislative

power to "declare" war would imply an executive one to "commence" war. Whatever effect the decision to give Congress the power to "declare" rather than "make" war has had, delegates to the Constitutional Convention thought it would draw less of the war power from the executive reservoir.

The broad war and foreign relations powers of the President were also recognized in the legislation enacted by the First Congress, which, containing many of the Framers, has been called a continuing Constitutional Convention. The act establishing the Treasury Department, concerning whose business the President was given no authority by the Constitution, delegated the duties of the Secretary to him; but the acts establishing the Foreign Affairs and War Departments stated, in identical language that the Secretary would "perform and execute such duties as shall, from time to time, be enjoined on or entrusted to him by the President." Incidentally, when the same Congress changed the name of the Foreign Affairs Department to that of the Department of State, in order that it might assume certain domestic responsibilities, it did not hesitate to specify the added duties of the Secretary.

Professor Scigliano is also illuminating with regard to the important passages of the Federalist, and of the Constitution on which the Federalist is such a brilliant commentary. Professor Scigliano says:

There is no question that the Constitution conveys broad war power to the President. To be sure, only one provision explicitly conveys this power: that which makes him "commander in chief of the army and navy of the United States; and of the militia of the several states, when called into the actual service of the United States." *The Federalist* is often cited as evidence that the Framers intended the President to have "no powers that any high military or naval commander who was not also President might not have." There, in Number 69, Hamilton observed that the President's authority as commander in chief "would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the Confederacy." But clearly such an interpretation misconceives what Hamilton meant by "supreme command and direction." In *Federalist* Number 74, where Hamilton took up the commander-in-chief clause again, he explained his meaning as follows: "The direction of war implies the direction of the common strength; and the power of directing and employing the common strength, forms a usual and essential part in the definition of executive authority." Nowhere in the *Federalist* is there support for the thesis, frequently put forward today, that Presidential incumbents, not the Framers, forged the commander-in-chief clause into a potent executive instrument.

The Constitutional oath of office required of the President confirms Hamilton's understanding of the commander-in-chief clause. If it is not itself a grant of power, it at least illuminates the military power granted the chief executive elsewhere in the document. The oath reads: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States." Indeed, the oath seems to light up an area which is wider than the commander-in-chief clause. If the President may do all that is necessary to preserve, protect, and defend the Constitution, what is he forbidden to do when the Constitution is imperiled? It is worth noting that no other officer of government takes the same oath as the President. Congressmen, federal judges and the executive officers, and all

state officials are obligated simply "to support this Constitution."

The President's war power in the Constitution does not rest solely on the commander-in-chief clause. He is also charged with the duty "to take care that the laws be faithfully executed." This power does not refer explicitly to military matters, of course, but it is applicable to them. Rebellion, insurrection, and other civil disturbances obstruct the execution of the laws: May not the President use military force, if necessary, to eliminate the obstruction? A reasonable inference from the "take care" clause is that he may, and Presidents have acted upon it. It is not surprising, given the implications of this clause, that James Wilson, a leading Framers, should describe it in the Pennsylvania ratifying convention as a "power of no small magnitude."

Mr. President, so that all Senators may have the benefit of Professor Scigliano's splendid scholarship, I ask unanimous consent for his memorandum to be printed in the RECORD; along with his brief cover letter to me.

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

STATE UNIVERSITY OF NEW YORK AT
BUFFALO.

June 1, 1970.

HON. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: In consideration of your interest in the question of the war power of the President, I am enclosing some thoughts on that subject. They are taken from research on which I am at present engaged.

Sincerely,

ROBERT SCIGLIANO,
Professor.

THE PRESIDENT AND THE WAR POWER: THE INTENT OF THE FRAMERS
(By Robert Scigliano)

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Footnotes at end of article.

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the chief executive elsewhere in the document. The oath reads: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."⁵ Indeed, the oath seems to light up an area which is wider than the commander-in-chief clause. If the President may do all that is necessary to preserve, protect, and defend the Constitution, what is he forbidden to do when the Constitution is imperiled? It is worth noting that no other officer of government takes the same oath as the President. Congressmen, federal judges and executive officers, and all state officials are obligated simply "to support this Constitution."⁶

The President's war power in the Constitution does not rest solely on the commander-in-chief clause. He is also charged with the duty "to take care that the laws be faithfully executed."⁷ This power does not refer explicitly to military matters, of course, but it is applicable to them. Rebellion, insurrection, and other civil disturbances obstruct the execution of the laws: May not the President use military force, if necessary, to eliminate the obstruction? A reasonable inference from the "take care" clause is that he may, and Presidents have acted upon it. It is not surprising, given the implications of this clause, that James Wilson, a leading Framers, should describe it in the Pennsylvania ratifying convention as a "power of no small magnitude."⁸

Finally there is the vesting clause of Article II of the Constitution. By it, "The executive power shall be vested in a President of the United States of America."⁹ There has been considerable dispute as to whether this clause makes a general grant of war power to the President. The issue has two parts: Does the clause grant general executive power, and, if so, does that power extend to military matters?

It has been argued that the vesting clause merely stipulates the title of the person who will exercise the executive power enumerated in the body of the executive article. But this argument has too much against it. If the Framers intended the President's executive power to be limited to an enumeration, why did they not say so? They did say, in Article I, that Congress would possess "all legislative powers herein enumerated."¹⁰ The Presidential enumeration, moreover, is obviously incomplete. For example, it mentions the President's power to nominate and, with the Senate's advice and consent, to appoint public officials, but it says nothing about the power of removal. It states that he may require the written opinions of the heads of executive departments, but is silent concerning his other relations with officials in the executive branch. The somewhat sketchy list of powers in the executive article is satisfactorily explained if the vesting clause is seen to convey general executive power. Under this interpretation, some powers were enumerated in the article because they were legislative or judicial in nature (for example, the veto and pardon powers) and would not otherwise be possessed by the President. Some were enumerated for emphasis (apparently the power to require written reports falls here, although Hamilton in *The Federalist* considered it "a mere redundancy in the plan"¹¹). And certain enumerations (most notably, that of the appointment power) were intended to limit the President's possession of executive powers.

Those Framers who had most to do with shaping the executive article, James Madison, Gouverneur Morris, and James Wilson, all considered the vesting clause of the article to convey general power to the President. So did most members of the First Congress (including most members who had also been

Framers) when, in establishing executive departments, they denied any power in Congress to control the removal of the heads of the departments.¹² Political practice, and practical necessity, have supported the general-grant theory of executive power.

The more arguable question is whether executive power includes power over war. At first glance, this does not seem possible; but let us examine the question closely. Early American thinking about the powers of government was influenced mainly by the writings of Locke, Montesquieu, and Blackstone, all of whom had the British government as their subject of study. It is true that Locke distinguished the power of executing domestic laws from that of "war and peace, leagues and alliances, and all the transactions with all persons and communities without the commonwealth." He called the first power "executive" and the second "federative if any one pleases. . . . I am indifferent as to the name," but he observed that they were nearly always united in the same hands.¹³ For Locke, this power corresponds to the power which every man possessed in the state of nature to execute the law of nature for himself. The law of nature is basically one of self-preservation, and civil societies execute that law for themselves in their relations with each other, as did particular men before they entered into civil society. Montesquieu maintained Locke's definition of the two powers, while calling them both simply "executive," one dealing with domestic and the other dealing with external matters.¹⁴ In a similar way Blackstone saw the prerogatives of the British crown to extend to sending and receiving ambassadors; making treaties, leagues and alliances; and making war and peace.¹⁵

Among the Framers, Hamilton most clearly expressed the Lockean conception of executive power. The reader is referred to the statement of Hamilton we have cited in connection with the commander-in-chief clause. We might also cite his view in *Federalist* Number 78 that "the execution of the laws, and the employment of the common strength, either for this purpose or for the common defense, seem to comprise all the functions of the executive magistrate."¹⁶ Hamilton's great argument under the name of "Pacificus" in defense of Washington's Neutrality Proclamation of 1793 was grounded on the belief that the Constitution gives the President, as part of the executive power, a general power of transaction affairs with other countries.¹⁷ Hamilton's major antagonist on the issue of the nature of executive power was his collaborator in the writing of the *Federalist* numbers, James Madison. Writing as "Helvidius," Madison responded to Hamilton-Pacificus, denying that the war and treaty powers were executive in nature and arguing that the executive power was concerned with the execution of the laws.¹⁸ Madison appears to have taken a similar position very early in the deliberations of the Constitutional Convention, when he indicated his agreement with the views expressed on the subject of the President's powers by James Wilson. The only powers which Wilson considered "strictly executive" were those of executing the laws and appointing officers not appointed by the legislature.¹⁹

Madison was driven to reply to Hamilton's "Pacificus" articles by Jefferson's urgent entreaty. "For God's sake, my dear sir," Jefferson wrote his friend, "take up your pen, select the most striking heresies and cut him to pieces in the face of the public."²⁰ Well might Jefferson have been concerned. If the broad grant of executive power given the President by the Constitution includes power over military and, more generally, foreign affairs, as Hamilton maintained then the President's authority in this realm is not confined to the enumerated powers in Article II and, on the other hand, Congress's

authority there is confined to the enumerated powers in Article I. That is to say, Congress in the military and foreign realm possesses the power to declare war and the Senate the power to approve treaties and diplomatic appointments, and nothing else; and these powers, being exceptions to the general executive power reposed in the President, are to be strictly construed. On the other hand, if, as Madison maintained, the broad grant of executive power given the President does not include power over military and international matters, then the President's authority in this realm is limited to the enumerated powers in the Article. The only explicit powers are those of making treaties and receiving ambassadors, and his designation as commander in chief of the army and navy.

It should be noted that Madison's view of the President's war power is not a narrow one. With the commander-in-chief clause apparently in mind, he had this to say about its scope in one of his *Helvidius* pieces: "In war, a physical force is to be created; and it is the executive will, which is to direct it. In war, the public treasures are to be unlocked; and it is the executive hand which is to dispense them. In war, the honors and emoluments of office are to be multiplied; and it is the executive patronage under which they are to be enjoyed."²¹ He stated in the Constitutional Convention that the executive "would necessarily derive so much power and importance from a state of war that he might be tempted, if authorized, to impede a treaty of peace," and so attempted to exclude him from participation in such treaties.²² And in the Virginia ratifying convention, he assured his fellow delegates that the Constitutional Convention had maintained the maxim "that the sword and the purse ought not to be put in the same hands."²³

Even so, Madison's view of the scope of the executive power cannot be sustained. Does he regard the commander-in-chief power as executive in nature? If so, then the general grant of executive power conveyed in the vesting clause (and which Madison believed was conveyed in that clause) must include the power of war and foreign relations. If not, then what kind of power could it possibly be? Further, consider his concession that "the executive may be a convenient organ of preliminary communications with foreign governments, on the subjects of treaty or war."²⁴ Upon what is this convenience based? What of the various other transactions which the United States must have with foreign governments? They, too, seem to come conveniently, or naturally, within the domain of the President, and yet no explicit power is given to him by the Constitution. And what about the Presidential oath? The words "preserve, protect, and defend" in the oath must have had special meaning to Madison, for he co-sponsored the amendment which added them there.²⁵ Does the sweep of these words contemplate nothing more than a chief executive who makes treaties and receives ambassadors and a commander in chief who directs the physical force of the nation, as important as these powers may be? Do they not call to mind someone who will be much concerned with "the collective interest and security?"—an expression which Madison himself, incidentally, used at one point in the Convention to describe the power of the executive.²⁶

The fact is that Madison did not consistently sustain his own position, expressed in the early Convention deliberations as *Helvidius*, regarding the nature of executive power; nor that expressed as *Helvidius* regarding the scope of the power given the President by the Constitution. Nor did Wilson appear to have been more consistent. If the executive power consists of executing the laws and appointing to office, as he, along

Footnotes at end of article.

with Madison stated in the convention deliberations referred to, how could he speak as follows on the subject of the Senate's powers: "Besides their legislative powers, they possess three others, viz: trying impeachments, concurring in making treaties, and in appointing officers?"²⁷ Note also Wilson's observation that the government established by the Constitution "secured all the internal advantages of a republic, at the same time that it maintained the external dignity and force of a monarchy."²⁸ Clearly, Madison and Wilson found it easier to expel war and foreign affairs from the domain of executive power than to keep them out. Their difficulty, we may suggest, lay in the fact that war and foreign affairs are from a theoretical point of view most reasonably explained as being executive, or akin to executive, in nature; and from a practical point of view most reasonably entrusted, in major part at least, to the President.

There is considerable evidence that the Framers generally were inclined to view the powers of war and foreign affairs as executive. They did not, by and large, object to having the President possess these powers but only to his possessing them without limitation. They were anxious that he not be enabled to launch a war, although they did want him to be able to act in an emergency; and they wished to prevent him from making treaties, especially treaties of peace, on his own authority.

The question of the President's powers arose in the first days of the Constitutional Convention. One of the Virginia Resolutions stipulated that the executive under the Constitution would "possess the executive powers of Congress" under the Confederation (there being no executive branch under that government). Charles Pinckney said he was for a "vigorous executive but was afraid the executive powers of the existing Congress might extend to peace and war, etc.," and John Rutledge plainly objected that "he was not for giving him [the executive] the power of war and peace."²⁹ By the power of war and peace, as the context makes clear, was meant that of "launching" war and "concluding" peace. The same meaning was usually conveyed in the Convention debates by the expression "make" war and peace, used in the sense of making a law or making a treaty.³⁰ The point needs some emphasis inasmuch as the use of the term "make" war in the Constitutional Convention is sometimes misunderstood to mean "wage" war. In order to meet these objections, the delegates amended the resolution to provide that the power of the yet-to-be-organized executive would be "to carry into effect the national laws" and "to appoint to offices in cases not otherwise provided for."³¹ But the delegates could not have seriously meant so to limit the powers that could be given the President. Certainly the resolution was never invoked for that purpose, despite occasions on which it might have been, and it quietly passed from view after being referred with other matters to the Committee of Detail in late July. While it was still in existence and before any of the President's powers had yet been decided upon, Gouverneur Morris casually remarked, as though it were self-evident, that the President would be "in possession of the sword."³²

The question of the President's war power came up again in the Convention, indirectly, in the August debate as to whether Congress' control over war should be expressed as empowering it to "make" war or "declare" war.³³ What the delegates wanted was to give the legislature the power to bring on or establish war (they also debated as to who should be given the power to "make" peace), but some of them saw important nuances of

meaning between "make" and "declare." Madison and Elbridge Gerry, for example, feared that power in the legislative branch to "make" war might leave none in the executive branch "to repel sudden attacks," whereas a power to "declare" war would leave the President able to act in an emergency. Roger Sherman, on the other hand, believed the President could still repel attacks under a Congressional power to "make" war, and he feared that a legislative power to "declare" war would imply an executive one to "commence" war. Whatever effect the decision to give Congress the power to "declare" rather than "make" war has had, delegates to the Constitutional Convention thought it would draw less of the war power from the executive reservoir.³⁴

The broad war and foreign relations powers of the President were also recognized in the legislation enacted by the First Congress, which, containing many of the Framers, has been called a continuing Constitutional Convention. The act establishing the Treasury Department, concerning whose business the President was given no authority by the Constitution, delegated the duties of the Secretary to him; but the acts establishing the Foreign Affairs and War Departments stated, in identical language that the Secretary would "perform and execute such duties as shall, from time to time, be enjoyed on or entrusted to him by the President."³⁵ Incidentally, when the same Congress changed the name of the Foreign Affairs Department to that of the Department of State, in order that it might assume certain domestic responsibilities, it did not hesitate to specify the added duties of the Secretary.

Even Jefferson, who professed no love for a very energetic government, shared the broad view of the executive power. In fact, his remarks on the subject sound Hamiltonian. In September, 1789, he wrote Madison as follows: "We have already given in example, one effectual check to the dog of war, by transferring the power of declaring war from the executive to the legislative, from those who are to spend, to those who are to pay."³⁶ In an opinion he prepared in his capacity as Secretary of State he declared: "The transaction of business with foreign nations is executive altogether. It belongs, then, to the head of that Department [that is, branch], except as to such portions of it as are especially submitted to the Senate. Exceptions are to be construed strictly."³⁷ In writing the American ambassador to France in 1793, he commenced that "the executive [is] charged with the direction of the military force of the Union, and the conduct of its affairs with foreign nations."³⁸ Finally, if further proof is needed, Secretary of State Jefferson, also in 1793, informed Citizen Genet that the President, "being the only channel of communication between this country and foreign nations, it is from him alone that foreign nations or their agents are to learn what is or has been the will of the nation."³⁹

We may summarize as follows: The Constitution gives the President broad power in the realm of war and foreign relations; and this power appears to be conveyed not only through specific grants in Article II but also and more fully through a general grant of power contained in the vesting clause of the Article. If this last is true, and, as we have pointed out, the evidence is not undisputed, then Congress' power to declare war and the Senate's power to ratify treaties are exceptions to the general grant. As exceptions, they are to be strictly construed; what was not expressly taken from the President remains with him.

In our concern with the executive powers of the President, we should not overlook the legislative powers of Congress. The legislative branch possesses formidable powers of its own—not just slices from the executive stock—which give it extensive direction over

the conduct of war and foreign affairs by the President. The most significant powers dealing directly with these subjects authorize Congress "to provide for the common defense," "raise and support armies," and "provide and maintain a navy."⁴⁰ In addition, Congress has received from the Constitution powers primarily of a non-military character which have an important bearing upon military matters. The stipulation that all money drawn from the Treasury be under appropriation acts reinforces the powers just cited, and the power to regulate commerce with foreign nations furnishes a basis for legislative direction of some aspects of foreign policy, as well as the conduct of hostilities at sea.⁴¹ Finally, the so-called sweeping clause of the Constitution gives Congress broad authority to carry into execution by legislation the President's powers over military and foreign affairs.⁴² Thus, despite all the President's authority in military and foreign affairs, Congress, as Story has said, has "a controlling influence over the executive power, since it holds at its command all the resources by which a chief magistrate could make himself formidable. It possesses the power over the purse of the nation, and the property of the people. It can grant, or withhold supplies; it can levy, or withdraw taxes; it can unnerve the power of the sword by striking down the arm which wields it."⁴³

CONCLUSION

We may summarize our argument as follows: The Constitution grants the President broad war-making powers. This judgment is supported by express provisions of the executive article, including the Presidential oath. It appears also to be supported by the vesting clause of the article. The vesting clause, we have argued, conveys general executive power to the President, and this power includes not only that of executing the laws but that of war and foreign affairs as a whole. This general power is both illustrated and qualified in the enumeration of powers in the executive article, and qualified by the delegation of certain executive functions to Congress. With respect to the war power, Congress was given authority to declare war and, through the Senate's participation in treaties, to conclude peace.

Our interpretation of the nature of executive power is that made by the writers on government from whom the principle of separation of powers was derived. Our interpretation of the executive power vested by the Constitution in the President best comports with the terms of the document and the necessities of government. There is considerable evidence to support both interpretations in the deliberations of the Constitutional Convention and in other views expressed and actions taken by members of the founding generation, although the evidence is not uncontroverted. Some persons at the time of the formation of the government appear to have been uncertain with respect to the exact nature and scope of the President's executive power; some expressed the belief that the executive power was limited basically to the execution of the laws (with the supervisory power over executive personnel that this implied), although they also tended to express views supporting our broader interpretation as well; and some appear to have believed that the executive power extended to all of the war power except that of launching war and making peace, which they considered to be legislative powers. The weight of the evidence supports the position we have argued.

However great, the President's war power is limited. If he employs the force of the community, it is the legislative branch which, as Locke tells us, "has a right to direct how the force of the community shall be employed."⁴⁴ The President is in possession of the sword but it is one which Congress has selected and whose condition it

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ensures; he wields the weapon but, unless attacked, when and against whom it directs. And yet Congress, as Locke also tells us, is much less capable of directing the President's actions in the military and foreign domain than when he acts in his ordinary executive capacity. Such actions "must be left in great part to the prudence of those who have this power committed to them to be managed by the best of their skill for the advantage of the commonwealth."⁶ Indeed, without denying Congress's ultimate Constitutional control over the war power, are there not circumstances when the President might be justified in acting outside of the law? What if "a strict and rigid observation of the laws may do harm, as not to pull down an innocent man's house to stop the fire when the next to it is burning?"⁷ But we need not borrow from Locke for our authority: Does not the Constitution, contemplating its own preservation, oblige the President to preserve and protect and defend it?

FOOTNOTES

- ¹ Art. I, sec. 2, para. 1.
- ² The quotation is from Edward S. Corwin, *The President; Office and Powers* (New York: New York University Press, 1948), p. 276, but many others have said substantially the same thing. For a recent example, see Joseph E. Kallenbach, *The American Chief Executive* (New York: Harper & Row, 1966), p. 526.
- ³ Alexander Hamilton, John Jay, and James Madison, *The Federalist* (New York: Modern Library, 1937), p. 448.
- ⁴ *Ibid.*, p. 482.
- ⁵ Art. II, sec. 1, para. 9.
- ⁶ Art. VI, para. 3.
- ⁷ Art. II, sec. 3 and sec. 1, para. 1, respectively.
- ⁸ Jonathan Elliot, ed., *The Debates in the Several State Conventions on the Adoption of the Federal Constitution*, 2nd ed. (Washington: Jonathan Elliot, 1836), vol. II, p. 474. See also *Federalist* No. 70, *op. cit.*, pp. 454-63.
- ⁹ Art. II, sec. 1, para. 1.
- ¹⁰ Art. I, sec. 1, para. 1.
- ¹¹ No. 74, *op. cit.*, p. 482.
- ¹² See Charles C. Thach, *The Creation of the Presidency, 1775-1789* (Baltimore: The Johns Hopkins Press, 1922), ch. VI, "The Removal Debate," pp. 140-165.
- ¹³ John Locke, *Two Treatises on Civil Government*, Book II, secs. 144-48.
- ¹⁴ Montesquieu, *The Spirit of the Laws*, Book XI, esp. ch. 6.
- ¹⁵ William Blackstone, *Commentaries on the Laws of England*, vol. I, pp. 252-58.
- ¹⁶ *Op. cit.*, p. 486. Compare this language with Locke's reference to the power "of employing the force of the community in the execution of such laws, and in the defense of the commonwealth from foreign injury." (*Op. cit.*, Book II, ch. 1, sec. 3).
- ¹⁷ Alexander Hamilton, "Pacifcus," in *Works*, ed. by Henry Cabot Lodge (Putnam's Sons, 1940), col. IV, pp. 432-89.
- ¹⁸ James Madison, "Letters of Helvidius," in *Writings*, ed. by Gallard Hunt (New York: G. P. Putnam's Sons, 1904), vol. VI, pp. 143-82.
- ¹⁹ Max Farrand, ed., *Records of the Federal Convention of 1787*; rev. ed. (New Haven: Yale University Press, 1937) vol. I, pp. 65-67, June 1 (Madison's notes); p. 70, June 1 (King's notes).
- ²⁰ Madison, *op. cit.*, vol. VI, p. 138 n.
- ²¹ "Letters of Helvidius," No. IV, *op. cit.*, p. 174.
- ²² Farrand, *op. cit.*, vol. II, Sept. 7, p. 540 (Madison's notes).
- ²³ Elliot, *op. cit.*, vol. III, p. 367.
- ²⁴ "Letters of Helvidius," No. I, p. 146.
- ²⁵ Farrand, *op. cit.*, vol. II, Aug. 27, p. 427 (Madison's notes).
- ²⁶ *Ibid.*, July 17, p. 34 (Madison's notes).
- ²⁷ Elliot, *op. cit.*, vol. II, p. 474. Emphasis supplied. This place in the Pennsylvania rati-

fying convention, but see also his comments in the Constitutional Convention in Farrand, *op. cit.*, vol. II, Sept. 6, p. 523 (Madison's notes).

²⁸ Farrand, *op. cit.*, vol. III, p. 139.

²⁹ Farrand, *op. cit.*, vol. I, June 1, pp. 64-65 (Madison's notes).

³⁰ See, for example, *ibid.*, vol. I, pp. 73-74 ("making peace and war"); vol. II, p. 318 ("It would be singular for one authority to make war, and another peace"), p. 319 ("there is a material difference between the cases of making war, and making peace"); vol. III, p. 405 (the power "of making war, was divided between the Senate and the House of Representatives"—not from the debates but from a letter by Morris).

³¹ *Ibid.*, June 1, p. 65 (Madison's notes).

³² *Ibid.*, vol. II, July 24, p. 105 (Madison's notes). Morris later in the Convention referred to the President as "the general guardian of the national interests." (*Ibid.*, Sept. 7, p. 541 [Madison's notes]).

³³ *Ibid.*, vol. II, August 17, pp. 318-19 (Madison's notes).

³⁴ Although not directly relevant to our discussion, it should be mentioned that some delegates also shared Rufus King's concern "that 'make' war might be understood to [mean] 'conduct' it, which was an executive function." (*Ibid.*, p. 319).

³⁵ Laws of the United States, vol. II, secs. 6, 32, 48.

³⁶ Letter to James Madison, Sept. 6, 1789, in Thomas Jefferson, *Writings*, ed. by Andrew A. Lipscomb and Albert E. Bergh (Washington: The Thomas Jefferson Memorial Assn., 1903), vol. VII, p. 461. Emphasis supplied.

³⁷ "Opinion," Apr. 24, 1970, *ibid.*, vol. III, p. 16. Emphasis supplied.

³⁸ Letter to Gouverneur Morris, Aug. 16, 1793, *ibid.*, vol. IX, p. 195.

³⁹ Letter to Edmond C. Genet, Nov. 22, 1793, *ibid.*, p. 256.

⁴⁰ Art. I, sec. 8. Other grants in this section authorize Congress "to define and punish piracies and felonies committed on the high seas, and offences against the law of nations"; "make rules for the government and regulation of the land and naval forces"; "provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions"; "provide for organizing, arming, and disciplining the militia, and for governing such parts of them as may be employed in the service of the United States"; and "exercise exclusive legislation in all cases whatsoever . . . over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." The Fourth Amendment indirectly grants power to Congress: "No soldier shall, in time of peace be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law." And the habeas corpus provision of Art. I, sec. 9, in a negative way gives power either to Congress or the President, or to both: "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it."

⁴¹ Art. I, secs. 9 and 8, respectively.

⁴² Art. I, sec. 8.

⁴³ Joseph Story, *Commentaries on the Constitution of the United States* (Boston: Little, Brown, 1858), vol. I, p. 372.

⁴⁴ Locke, *op. cit.*, Bk II, sec. 143.

⁴⁵ *Ibid.*, sec. 147.

⁴⁶ *Ibid.*, sec. 159.

AMENDMENT NO. 687

Mr. SPONG. Mr. President, the question of congressional prerogatives in the area of foreign affairs and war is not a new one. It goes back to the framing of the Constitution. Its more modern man-

ifestations date from the lend-lease program of 1941. It is, I believe, regrettable that it has taken a crisis to bring the question into the spotlight and demand action upon it. But the failure to resolve the question previously has done just that.

While the Senators and Representatives who voted for the Tonkin Gulf resolution certainly did not intend to vote for a major war of indeterminate duration, the language of that resolution is clear: ¶ quote:

(T)he United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Three conditions are imposed under the resolution: First, the President must decide that force is necessary, second, the force must be used in a SEATO member or protocol state, and third, the state in which the force is used must have requested U.S. assistance.

These three conditions have been met in Southeast Asia—first in Vietnam, later in Cambodia. Even without the resolution, the President has maintained, with I believe some legal basis, that he has had authority to undertake the actions which he has ordered. In addition to this, the realities of the military situation led to the conclusion that the area of Cambodia entered by U.S. troops had for some time been a theater of war, a sanctuary for enemy troops operating in South Vietnam.

Accordingly, it was the President's prerogative as Commander in Chief to go in. One of the sponsors of the Cooper-Church amendment, Senator CHURCH, has stated that neither he nor Senator COOPER have based sponsorship of their amendment on the belief that the President acted illegally or exceeded his authority under the Constitution.

Consequently, it is policy—future policy concerning Cambodia—with which the Senate should now concern itself. The Senate, regardless of the dim prospects for agreement with the House, should express itself and attempt to participate in the formulation of our future policy in Cambodia. The Cooper-Church amendment seeks to do this. It might be viewed as an attempt to redefine the theater of the war, not to determine how to conduct the war within an authorized theater. I believe a majority of the Senate wishes to join an expression against the use of U.S. forces in Cambodia in support of Cambodian troops or in support of any Cambodian Government. I know a majority of the Senate share my fear of a widening land war in Asia involving U.S. troops. What I believe the Senate should do is state a clear caveat against this in a manner that does not impinge upon the President's authority as Commander in Chief, and is consistent with its own constitutional prerogatives, including the appropriation of funds.

Certainly I do not want to endanger further a single U.S. serviceman who is in Southeast Asia, nor do I wish to be a party to anything that could delay the

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announced disengagement of our troops from South Vietnam. On the other hand, I do not believe the Senate wishes to grant broader powers in Cambodia to the President as Commander in Chief without his having to consult with Congress prior to entering a new theater of war.

The Senator from West Virginia (Mr. BYRD) seeks to guarantee the protection of our troops in South Vietnam and to facilitate the withdrawal of U.S. forces from South Vietnam by modifying the Cooper-Church amendment as follows:

Except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam, or to facilitate the withdrawal of United States forces from South Vietnam.

Or, the Senator from West Virginia seeks to modify the language as follows. I ask unanimous consent to have this language, as previously submitted by the Senator, printed at this point in the RECORD.

There being no objection, the modification of amendment No. 667 was ordered to be printed in the RECORD, as follows:

On page 5, line 7, before the semicolon insert a comma and the following: "except that the foregoing provisions of this clause shall not preclude the President from taking only such action as is necessary, in the exercise of his constitutional powers and duties as Commander in Chief, to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam; and the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam."

Mr. SPONG. I believe this language, which has a commendable purpose, could be subject to a broad interpretation, an interpretation that would allow the President to widen the conflict beyond the theater of war along the South Vietnamese-Cambodian border. It is also subject to interpretation that would sanction the use of U.S. forces in Cambodia in support of Cambodian forces anywhere in Cambodia, despite the stated opposition of its sponsor, Senator BYRD, to such policy at this time.

AMENDMENT NO. 667

In the belief that the Cooper-Church language would not be damaged if we spell out the authority we presently understand the President to have as Commander in Chief and if we redefine the theater of operations, I propose the following language. I do so mindful of the parliamentary situation, which, in the absence of unanimous consent, would require that the Byrd amendment be voted upon first. Also, I offer the language with the knowledge that it is difficult to spell out the specifics of the President's present independent authority as Commander in Chief. The language is as follows:

Except that the foregoing provisions of this clause shall not prevent the President from taking action along the Cambodian border with South Vietnam to forestall enemy attacks from that area into South Vietnam, to repel such attacks once they are in progress, and to engage enemy forces fleeing from South Vietnam into that area of Cambodia, if the President as commander-in-chief concludes that such action is essential to the protection of United States troops in South Vietnam and to their withdrawal from that country.

As has been stated in the debate, we are operating in a gray area in determining senatorial and presidential constitutional prerogatives. This makes it necessary that the Senate define its position as clearly as possible.

Mr. President, I send this amendment to the desk.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, the amendment will be received and printed and will lie on the table.

Mr. BYRD of West Virginia. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending question is the adoption of the amendment of the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, for the record, may I say that it is my present intention to submit anew tomorrow the unanimous-consent request which I made today and to which there has been objection.

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

ADDITIONAL COSPONSOR OF A BILL

S. 364

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Washington (Mr. JACKSON) be added as a cosponsor of S. 364, the Uniform Services Retirement Pay Equalization Act.

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

AMENDMENT OF THE FOREIGN MILITARY SALES ACT—AMENDMENT

AMENDMENT NO. 667

Mr. SPONG 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. SPONG when he submitted the amendment appear later in the RECORD under the appropriate heading.)

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 674

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Colorado (Mr. ALLOTT), I ask unanimous consent that, at the next printing, the name of the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of amendment No. 674 to S. 3112, to require an investigation and study, including research, into possible uses of solid wastes resulting from mining and processing coal.

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

RECESS UNTIL 11 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 recess until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 7 o'clock and 55 minutes p.m.) the Senate took a recess until tomorrow, Thursday, June 11, 1970, at 11 a.m.

SECRET

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5. (Secret - JGO) The transcript of the Director's testimony of 13 March 1970 was forwarded to Senate Foreign Relations Committee and returned at the close of business.

6. (Confidential - JGO) Talked to Mr. Roy Banner, General Counsel, NSA, who advised that he would be meeting later in the day with Mr. Frank Bartimo and Mr. Robert Andrews of Department of Defense General Counsel. He noted that prior to this office's conversation yesterday with Messrs. Bartimo and Andrews, DOD General Counsel had in effect filed Chairman Henderson's letter for later consideration.

7. (Confidential - GLC) Saw Charles Campbell, Administrative Assistant to Senator Richard B. Russell (D., Ga.), and asked him if Mr. Maury's letter on [REDACTED] served his purposes. Campbell said it had. He said he was forwarding a copy of our letter to [REDACTED] as we had expected.

8. (Confidential - GLC) Talked to Richard Spears, Special Research Assistant to Senator George Murphy (R., Calif.), about a constituent letter from Thomas M. Caffo asking about Representative Tunney's allegations to the effect that CIA was supporting an opium war in Laos. I referred to Mr. Maury's conversation with the Senator on this subject and left with Spears a copy of the New Yorker article on this subject and our commentary on the article which he could draw on in responding to Mr. Caffo. Spears said he would touch base with the Senator on this and thanked me for the backup material.

9. (Confidential - JMM) Called Ed Braswell, Chief of Staff, Senate Armed Services Committee, to say that we were prepared to provide an oral briefing in response to his request regarding the military situation and economic outlook in Cambodia. Braswell said his schedule was crowded and uncertain and he would have to call us back to fix a date.

SECRET

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CONGRESSIONAL RECORD—HOUSE

H 5201

tee goes back to review the total program and come up with a recommendation not only on the part of the subcommittee and the full committee studying the problem but also the Economic Development Administration.

Mr. PICKLE. I thank the gentleman for those comments.

Mr. DON H. CLAUSEN. Will the gentleman yield?

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

Mr. DON H. CLAUSEN. I want to state to the gentleman in the well that this is one of the primary reasons why our committee has made the decision simply to extend this legislation for the one year. In this way we can take into account all the factors such as the one the gentleman is concerned about.

Mr. PICKLE. I thank the gentleman. I do hope that the Economic Development Administration will come up with a solution to this matter. Here in this county of my district they have been planning for 4 years and getting ready to do something, but they have never been brought under the program. This ought to be changed. The gentleman recognizes this, I am sure. I want the gentleman to understand that I am not trying to rewrite the eligibility standards. I believe they should be changed. But in this particular instance, if a county is to receive planning money, it ought to be a part of this program. So at the time that this bill is presented in a year from now or when it comes up in the other body, we should get some relief. This does not automatically mean that the county will get the money. It means they will have to still be approved. It means that they will be considered eligible and not necessarily that they will receive the money.

Mr. HARSHA. I hope, with the assurance of the Members on the floor today that we will give your proposition very serious consideration, you will withhold offering any amendment at this time and let us take it up in due course in the full committee.

Mr. PICKLE. In view of the fact that you have asked the Economic Development Administration's office downtown to give you specific recommendations looking toward working this solution, together with the Department of Labor, and the strong assertions made here on the floor, I will not offer the amendment. But I do ask the committee to try to correct this inequity.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. BLATNIK).

The amendment was agreed to.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SLACK, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 15712) to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for titles I through IV through fiscal year 1971, pursuant to House Resolution 1045, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. ZION

Mr. ZION. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ZION. I am in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ZION moves to recommit the bill H.R. 15712 to the Committee on Public Works.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. HARSHA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed and to include extraneous matter.

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

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON NATIONAL PARKS AND RECREATION, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, TO SIT DURING GENERAL DEBATE TODAY

Mr. HALEY. Mr. Speaker, I ask unanimous consent that the Subcommittee on National Parks and Recreation of the Committee on Interior and Insular Affairs may sit today during general debate.

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

There was no objection.

AUTHORIZING SELECT COMMITTEE TO STUDY RECENT DEVELOPMENTS IN SOUTHEAST ASIA AND TO REPORT ITS FINDINGS

Mr. ANDERSON of Tennessee. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 976 and ask for its immediate consideration.

The Clerk read the resolution as follows:

Resolved, That

(1) The Speaker of the House shall appoint a select committee of eleven Members of the House, two from the Armed Services Committee, two from the Foreign Affairs

Committee, and seven from the House at large and shall designate one Member to serve as chairman, which select committee shall immediately proceed to Southeast Asia to investigate all aspects of the United States military involvement in Southeast Asia. The select committee shall, within thirty days of the adoption of this resolution, report to the House the results of its investigation.

(2) For the purpose of carrying out this resolution the committee is authorized to sit and act during the present Congress at such times and places whether the House is sitting, has recessed, or has adjourned.

Mr. ROSENTHAL (during the reading). Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. ROSENTHAL. Mr. Speaker, in the resolution according to the copy that has been given out what the Clerk read has been stricken from the resolution, the "whereas" clauses.

The SPEAKER. The Chair will state to the gentleman that that is a committee amendment. The Chair was about to instruct the Clerk to report the committee amendments after the original resolution had been read.

The Clerk will report the first committee amendment.

COMMITTEE AMENDMENT

The Clerk read as follows:

Committee amendment: On page 2, line 1, strike out all of line 1, and insert the following: "committee of twelve Members of the House, six of which shall be from the majority party and six from the minority party, as follows: two from the".

The SPEAKER. The question is on the committee amendment.

Mr. CAREY. Mr. Speaker, reserving the right to object, will it be in order under the resolution to attempt to reinstate the "whereas" clauses if it be stricken without objection?

The SPEAKER. The Chair will state that if the committee amendment is voted down then of course the original language will be before the House.

Mr. CAREY. Mr. Speaker, I object to the committee amendment.

PARLIAMENTARY INQUIRY

Mr. HOSMER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. HOSMER. What is the matter now being considered by the House?

The SPEAKER. The Chair will state that the matter now before the House is the committee amendment to House Resolution 976, page 2, beginning in line 2 and going down to the words "from the" in line 4. That is the committee amendment that is pending at the present time.

The question is on the committee amendment.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CAREY. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were yeas 227, nays 95, not voting 107, as follows:

[Roll No. 154]
YEAS—227

Abbitt	Flowers	Mosher
Adair	Flynt	Myers
Anderson, III	Foreman	Natcher
Anderson, Tenn.	Fountain	Nelsen
Andrews, Ala.	Frelinghuysen	O'Neal, Ga.
Andrews, N. Dak.	Frey	Pelly
Annunzio	Fuqua	Pettis
Arends	Galifianakis	Pickle
Ashley	Garmatz	Pirnie
Beall, Md.	Goldwater	Poage
Belcher	Goodling	Poff
Bell, Calif.	Gray	Price, Tex.
Bennett	Griffin	Pryor, Ark.
Berry	Grover	Purcell
Betts	Gubser	Quie
Bevill	Gude	Quillen
Bieber	Haley	Rarick
Blackburn	Hamilton	Reid, Ill.
Blanton	Hammer	Reifel
Blatnik	Hammerschmidt	Rhodes
Boggs	Hanna	Riegle
Brinkley	Hansen, Idaho	Roberts
Brook	Harsha	Rogers, Colo.
Broomfield	Harvey	Rogers, Fla.
Brotzman	Heckler, Mass.	Roth
Brown, Mich.	Henderson	Ruppe
Brown, Ohio	Hogan	Sandman
Broyhill, N.C.	Horton	Satterfield
Broyhill, Va.	Hosmer	Saylor
Buchanan	Howard	Schneebeli
Burke, Fla.	Hunt	Schwengel
Burleson, Tex.	Hutchinson	Scott
Burlison, Mo.	Ichord	Sebelius
Burton, Utah	Jarman	Shriver
Button	Johnson, Calif.	Sikes
Bymes, Wis.	Johnson, Pa.	Sisk
Caffery	Jonas	Skubitz
Camp	Jones, N.C.	Slack
Casey	Kazen	Smith, Calif.
Cederberg	Kee	Smith, Iowa
Chamberlain	Keith	Smith, N.Y.
Chappell	King	Snyder
Clancy	Kleppe	Springer
Clausen, Don H.	Kluczynski	Stafford
Clawson, Del	Kuykendall	Stanton
Cleveland	Kyl	Steiger, Ariz.
Collier	Landgrebe	Steiger, Wis.
Collins	Langen	Stevens
Conable	Latta	Stubblefield
Corbett	Lennon	Stuckey
Coughlin	Lloyd	Taft
Cramer	Long, La.	Talcott
Crane	Lukens	Taylor
Cunningham	McClary	Teague, Calif.
Danels, N.J.	McCloskey	Teague, Tex.
Davis, Ga.	McCure	Thompson, Ga.
Davis, Wis.	McCulloch	Thomson, Wis.
de la Garza	McDade	Udall
Dellenback	Mich.	Vander Jagt
Denny	McKneally	Waggonner
Dennis	Madden	Wampler
Devine	Mahon	Watson
Dickinson	Mallard	Watts
Duncan	Marsh	Whalen
Dwyer	Martin	White
Edmondson	Matsunaga	Widnall
Edwards, Ala.	May	Wiggins
Edwards, La.	Mayne	Wilson, Charles H.
Erlenborn	Meeds	Winn
Esch	Melcher	Wright
Eshleman	Michel	Wyatt
Evins, Tenn.	Minshall	Wylder
Fallon	Mize	Wyllie
Felghan	Mizell	Wyman
Findley	Montgomery	Zion
	Morse	Zwach
	Morton	

NAYS—95

Adams	Dent	Hays
Addabbo	Donohue	Hechler, W. Va.
Albert	Eckhardt	Helstoski
Anderson, Calif.	Edwards, Calif.	Hicks
Biaggi	Eilberg	Hollifield
Bingham	Evans, Colo.	Hull
Boland	Flood	Jacobs
Brademas	Ford	Karsh
Brooks	William D. Fraser	Kastenmeter
Burke, Mass.	Friedel	Koch
Byrne, Pa.	Fulton, Pa.	Leggett
Cabell	Gibbons	Long, Md.
Carey	Gonzalez	Lowenstein
Celler	Green, Pa.	McFall
Clark	Griffiths	Macdonald, Mass.
Clay	Gross	Mikva
Cohelan	Hall	Miller, Ohio
Corman	Hathaway	Minish
Delaney	Hawkins	Mink

Monagan	Pike	Sullivan
Morgan	Podell	Tierman
Moss	Randall	Tunney
Murphy, Ill.	Rees	Ullman
Nedzi	Rodino	Van Deerlin
Obey	Rooney, Pa.	Vanik
O'Hara	Rosenthal	Waldie
O'Konski	Rostenkowski	Wolff
Olsen	Roybal	Yates
Patman	Ryan	Yatron
Patten	Scherle	Young
Perkins	Shipley	Zablocki
Philbin	Stokes	

NOT VOTING—107

Abernethy	Ford, Gerald R.	O'Neill, Mass.
Alexander	Fulton, Tenn.	Ottinger
Ashbrook	Gallagher	Passman
Aspinall	Gaydos	Pepper
Ayres	Gettys	Pollock
Baring	Glaimo	Powell
Barrett	Gilbert	Preyer, N.C.
Bolling	Green, Ore.	Price, Ill.
Bow	Hagan	Pucinski
Braaco	Halpern	Rallsback
Bray	Hanley	Reid, N.Y.
Brown, Calif.	Hansen, Wash.	Reuss
Burton, Calif.	Harrington	Rivers
Bush	Hastings	Robison
Carter	Hébert	Roe
Chisholm	Hungate	Rooney, N.Y.
Colmer	Jones, Ala.	Roudebush
Conte	Jones, Tenn.	Ruth
Conyers	Kirwan	St Germain
Cowger	Kyros	Schadeberg
Culver	Landrum	Scheuer
Daddario	Lujan	Staggers
Daniel, Va.	McCarthy	Steed
Dawson	McEwen	Stratton
Derwinski	McMillan	Symington
Diggs	MacGregor	Thompson, N.J.
Dingell	Mann	Vigorito
Dorn	Mathias	Watkins
Dowdy	Meskill	Weicker
Downing	Miller, Calif.	Whalley
Dulski	Mills	Whitehurst
Farbstein	Mollohan	Whitten
Fassell	Moorhead	Williams
Fish	Murphy, N.Y.	Wilson, Bob
Fisher	Nichols	Wold
Foley	Nix	

So the committee amendment was agreed to.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Gerald R. Ford.
Mr. O'Neill of Massachusetts with Mr. Bob Wilson.

Mr. Staggers with Mr. Bray.
Mr. Whitten with Mr. Bow.
Mr. Passman with Mr. McEwen.
Mr. Pepper with Mr. Lujan.
Mr. Roe with Mr. Pollock.
Mr. Hanley with Mr. Reid of New York.
Mr. Rivers with Mr. Williams.
Mr. Gilbert with Mr. Halpern.
Mr. Vigorito with Mr. Watkins.
Mr. Stratton with Mr. Fish.
Mr. Thompson of New Jersey with Mr. Conte.

Mr. Symington with Mr. Cowger.
Mr. Rooney of New York with Mr. Robison.
Mr. Gaydos with Mr. Ruth.
Mr. St Germain with Mr. Meskill.
Mr. Reuss with Mr. Schadeberg.
Mr. Daddario with Mr. Weicker.
Mr. Murphy of New York with Mr. Hastings.
Mr. Moorhead with Mr. Ayres.
Mr. Baring with Mr. Ashbrook.
Mr. Fulton of Tennessee with Mr. Carter.
Mr. Daniel of Virginia with Mr. Whitehurst.

Mr. Ottinger with Mr. Nix.
Mr. Mann with Mr. Whalley.
Mr. Nichols with Mr. Roudebush.
Mr. Miller of California with Mr. Mathias.
Mr. Fisher with Mr. Bush.
Mr. Fascell with Mr. MacGregor.
Mr. Dingell with Mr. Rallsback.
Mr. Aspinall with Mr. Wold.
Mr. Colmer with Mr. Derwinski.
Mr. Abernethy with Mr. Jones of Alabama.
Mr. Price of Illinois with Mr. Steed.
Mr. Hagan with Mr. Dowdy.
Mr. Barrett with Mr. Dulski.
Mr. Brown of California with Mrs. Chisholm.

Mr. Alexander with Mr. Culver.
Mr. Dorn with Mr. Gettys.
Mr. Scheuer with Mr. Diggs.
Mr. Brasco with Mr. Gallagher.
Mr. Conyers with Mr. Harrington.
Mr. Burton of California with Mr. Powell.
Mr. Preyer of New Jersey with Mr. Mollohan.

Mr. Mills with Mr. Hungate.
Mr. Downing with Mr. Pucinski.
Mr. Dawson with Mr. Kirwan.
Mr. Farbstein with Mrs. Hansen of Washington.
Mr. Glaimo with Mr. Foley.
Mrs. Green of Oregon with Mr. McCarthy.
Mr. Landrum with Mr. Jones of Tennessee.
Mr. Kyros with Mr. McMillan.

Messrs. DENT, ALBERT, BYRNE of Pennsylvania, FRIEDEL, EILBERG, MONAGAN, MACDONALD of Massachusetts, and DONOHUE changed their votes from "yea" to "nay."
Messrs. HALEY and HAMMER-SCHMIDT changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

COMMITTEE AMENDMENTS

The SPEAKER. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 5, strike out the word "seven" and insert in lieu the word "eight".

The committee amendment was agreed to.

The SPEAKER. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 7, after the word "as", strike out "chairman, which" and insert in lieu "chairman. The".

The committee amendment was agreed to.

The SPEAKER. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 10, strike out the word "thirty" and insert in lieu the word "forty-five".

The committee amendment was agreed to.

The SPEAKER. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 15, after the word "places", insert "as it deems appropriate".

The committee amendment was agreed to.

The SPEAKER. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, following line 16, insert:

"(3) The select committee may appoint and fix the compensation of such clerks, experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable. The select committee is authorized to reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the select committee other than expenses in connection with meetings of the select committee held in the District of Columbia.

"(4) The expenses of the select committee shall be paid from the contingent fund of the House of Representatives upon vouchers signed by the chairman of the select committee."

The committee amendment was agreed to.

The SPEAKER. The gentleman from Tennessee (Mr. ANDERSON) is recognized for 1 hour.

PARLIAMENTARY INQUIRY

Mr. CAREY. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. ANDERSON of Tennessee. I yield to the gentleman from New York.

Mr. CAREY. Mr. Speaker, at what point did the Speaker put the committee amendment which appears on page 1 to strike out the preamble?

The SPEAKER. That question will come after the adoption of the resolution.

Mr. CAREY. I thank the Speaker.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Nebraska (Mr. MARTIN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 976 provides for the establishment of a select committee of 12 members, six from each side of the aisle, to go to Southeast Asia as soon as practicable on a high priority fact finding mission and to report back its detailed observations to the full membership of the House within 45 days of the adoption of the resolution. The members of the select committee would be appointed by the Speaker, with two being from the Committee on Armed Services, two from the Committee on Foreign Affairs, and the remainder from the membership generally.

Mr. Speaker, I do not need to elaborate to this body on the acute, urgent responsibilities we all face relative to Southeast Asia—as individual Members and as the legislative body in closest contact with the people. I believe this is an excellent resolution, a very timely resolution, a very important resolution, and one which should be passed by an overwhelming majority this afternoon. To do otherwise, I believe, would be a keen disappointment to most Americans who are so seriously concerned and so very considerably divided over our involvement in the war in Southeast Asia and what the future course of that involvement will be.

I am impressed by the fact that the proposed select committee would not come back with briefcases full of recommendations. Rather, its function would be to report accurate, detailed, objective observations and facts which I believe would be of great value to each individual Member in deciding his own approach to the problems of Southeast Asia. While I am sure the special Presidential task force will do a good job, nothing can replace a firsthand report from one's own colleagues. While each of us may differ very much as to viewpoints, we stand on one great area of common ground in that we each represent and are directly responsible to 470,000 constituent American citizens. Thus, I believe a report from a small committee of the House would be of greater value than a report from any other group.

I am confident that our great Speaker would see that this committee would be composed of Members of varied view-

points that no one could validly label it a committee of hawks or a committee of doves. He has always been most fair and prudent in these matters.

Mr. Speaker, there are some who will say this committee will cost the taxpayers some money. Of course it will, but only a minute amount compared with the more than \$20 billion we are spending on that war.

There are also some who will say, with justification, that the presence of the committee will add to the worries and workload of our commanders out there. This is true, but as one who has in past years been on the receiving end of congressional visits, I believe I can reassure my colleagues that the additional workload and responsibility on the part of the commanders will be welcomed and is more than offset by the appreciation by the troops and others that a committee of Congress has enough interest to come out and talk with them.

The committee would be authorized to appoint and fix compensation for necessary employees and consultants and reimburse them for travel and subsistence, subject to action of the House Administration Committee and approval on the floor.

Mr. Speaker, I understand this resolution, or its equivalent, has a bipartisan sponsorship of 71 or more of our colleagues. I want to commend the gentleman from Mississippi (Mr. MONTGOMERY) for being its author and chief sponsor and for all the hard work he has put in on it.

Mr. Speaker, I strongly urge the adoption of House Resolution 976.

Mr. MARTIN. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER. The gentleman from Nebraska is recognized.

Mr. MARTIN. Mr. Speaker, as the gentleman from Tennessee has explained, House Resolution 976 provides for a select committee of 12 members to be appointed by the Speaker to go to Vietnam and Southeast Asia, and to make a report as to what is going on over there within 45 days. The resolution provides that six Members shall be appointed from each side of the aisle, including two from the Armed Services Committee and two from the Foreign Affairs Committee, the balance to be appointed from the membership at large. I understand that 72 Members have cosponsored this resolution which we are considering this afternoon.

Mr. Speaker, as you know, the resolution provides for a legislative committee to go to Vietnam and Southeast Asia and to make a report to the House. We have a similar committee at the present time that I understand is currently, or at the present moment, returning from Southeast Asia, a committee appointed by the President, which is composed of some Members of the legislative branch of our Government. I do feel that the legislative branch of our Government has very definite responsibilities in this area, and I feel that our branch of the Government should have a committee to go there with adequate time to check into the situation and the various things they

find, come back, and make a report—that is all this resolution does.

I was astounded yesterday, if the CBS news reporting was correct, when they showed a picture of the Presidential committee 10 miles inside Cambodia. The comment was that the battalion they inspected was equipped with new uniforms and new boots, and their rifles were all polished up, which I think was more or less a superficial view of what is going on over there.

I trust this select committee, if the resolution is adopted, will be able to make a more objective review of what is going on in South Vietnam than appeared from the CBS broadcast yesterday.

I reserve the balance of my time.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 6 minutes to the distinguished author and sponsor of the resolution, the gentleman from Mississippi (Mr. MONTGOMERY).

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

Mr. MONTGOMERY. Mr. Speaker—

Mr. YATES. Mr. Speaker, will the gentleman yield for a question before he starts? Will the gentleman tell us why he wants to strike out the "whereas" clauses of the resolution?

Mr. MONTGOMERY. May I answer the gentleman after I make my remarks? At that time I shall try to answer the gentleman's question.

I want to thank my distinguished colleague from the State of Tennessee (Mr. ANDERSON) for allowing this time and compliment him on the fine manner in which he has explained the merits of House Resolution 976 to our colleagues.

In my remarks today I will be appealing to the good judgment and common-sense of each Member to consider this measure on the basis of its merits. And this resolution does have merit.

In simple language, House Resolution 976 would pave the way for the Speaker to appoint a select committee of 12 Members to go to Southeast Asia on a high priority factfinding mission. The committee would be equally divided between the majority and minority parties with two coming from the House Armed Services Committee, two from the House Foreign Affairs Committee, and eight from the House at large.

This group of 12 colleagues would be representing each one of us. It would be their duty and responsibility to look into many aspects of our involvement in Southeast Asia. I would expect each Member of the House to be given the opportunity to offer suggestions, if they so desire, to the select committee on what to see and what to do. In this way we could accomplish what is logistically impossible to do—that is, send all 435 Members to Southeast Asia.

The select committee would be given 45 days in which to report back their findings to this body from the date of adoption of the resolution. I feel this will allow them ample time to make their pretrip plans, conduct a thorough on-the-site investigation, and draw up their final report for the House.

Mr. Speaker, I would like to make one

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very important point at this time about the objectives of the select committee. It will be their duty to gather as much factual and current information as possible on the situation in Southeast Asia and make a detailed report to their colleagues and only a report. They would supply the information this body needs to reach decisions, and then it would be up to each individual Member to reach his or her own opinions. Each Member will have the facts, the same facts. The conclusions reached from these facts would be at the discretion of each Member.

Earlier I mentioned the merits of House Resolution 976. One of the first that comes to mind is the fact that the resolution was cosponsored by 71 members representing both parties and the entire spectrum of political philosophies. The Select Committee possibly should be made up of members with varied opinions on the Far East situation but members who would be open minded on their onsite inspections and observations in Indochina.

One of the most obvious merits to me is that we will be sending 12 members to southeast Asia to act as our eyes and ears. My three trips to South Vietnam have convinced me of the importance of seeing for yourself exactly what is taking place in southeast Asia. Briefings and situation reports such as we receive from time to time are of help, but they are not the complete answer. To use an expression, "You have got to be where the action is."

You have to actually talk to our servicemen in the field, you have to observe the capabilities of the South Vietnamese, you have to talk to national and local Vietnamese leaders in private, you have to get out in the countryside to see our pacification program at work, and you have to talk to American civilians such as missionaries. It is necessary to do these and other things on a firsthand and personal basis if you expect to really learn about American involvement in Southeast Asia.

As I stated earlier, the ideal or utopian situation would be to send all 435 members to see for themselves. I wish this were possible. But since it is not, the next best choice we have is to send 12 of our colleagues to observe for each of us and have them report back to us in a factual, objective and unbiased manner.

Another merit to House Resolution 976 is the answer it would provide for a small group of critics of the Congress who say we are not exerting the leadership we should as far as the conflict in Vietnam is concerned. I do not wish to dwell on what we have or have not done in the past. We need to look to the future. I want my vote to be cast on the most current and thorough information at my disposal. I want to know that my vote will be cast on the basis of the facts and not an assumption on my part. I believe that my 12 colleagues we will be sending to Southeast Asia will be able to provide me with these facts.

Mr. Speaker, I have tried to cover only the high points and the most compelling merits of House Resolution 976. There are others which I am sure my colleagues will be able to ascertain for themselves by reading the resolution.

In closing, I would only hope that the arguments I have presented today will stir the good judgment of my colleagues to vote in the affirmative for House Resolution 976.

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

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

Mr. YATES. Mr. Speaker, may I ask the gentleman two questions? First, why is it proposed to strike the preamble? Why is it the committee recommends striking the preamble to the resolution as amended? Second, do the 71 sponsors of this resolution favor the striking of the preamble which apparently states the rationale for the resolution?

Mr. MONTGOMERY. Mr. Speaker, answering the second question, that would have to be left up to the 71 sponsors whether they would agree to support what the Rules Committee has done. I will support the Rules Committee. They acted in their wisdom, I am sure.

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

Mr. MONTGOMERY. I yield to the gentleman from Mississippi (Mr. COLMER.)

Mr. COLMER. Mr. Speaker, I thank the gentleman for yielding. Permit me to say first to the gentleman from Illinois and to any other interested parties that so far as I, personally, am concerned, it makes no difference to me whether the preamble is stricken or not stricken. I can only enlighten the gentleman, I hope, by saying that when the Committee on Rules considered this resolution, the question was raised by a member of the committee that the preamble was such that the resolution itself covered all the aspects of it and, therefore, it was not necessary to have the preamble.

The SPEAKER. The time of the gentleman from Mississippi has expired.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield me 3 additional minutes?

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield the gentleman 3 additional minutes.

Mr. COLMER. Mr. Speaker, will the gentleman yield further?

Mr. MONTGOMERY. I yield further to the gentleman from Mississippi.

Mr. COLMER. In substantiation of that view let me call the attention of the House to lines 7 through 12 on page 2 of the resolution. That portion of the resolution reads:

The select committee shall immediately proceed to Southeast Asia to investigate all aspects of the United States military involvement in Southeast Asia. The select committee shall, within forty-five days of the adoption of this resolution, report to the House the results of its investigation.

In other words, the resolution itself provides for the investigation of all aspects of the war, whereas the preamble would only point out and emphasize Cambodia.

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

Mr. MONTGOMERY. I yield to the gentleman from California (Mr. SISK).

Mr. SISK. I appreciate the gentleman's yielding.

I ask the gentleman to yield for this purpose: I am the one who moves to strike the whereas clauses on every resolution which ever appears before the Committee on Rules. I have done that since I have been a Member because basically I feel the information as to the matter and the point of the resolution is generally contained in the report.

I merely believe that the whereas clauses are surplusage. This is a traditional position with me and has nothing to do with anything that might have been used in the whereas clauses.

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

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

Mr. YATES. May I point out the incongruity which exists in the resolution, in view of the statement by the distinguished chairman of the Committee on Rules. The gentleman refers to the language which appears on page 2, lines 7 through 9, which read:

The select committee shall immediately proceed to Southeast Asia to investigate all aspects of the United States military involvement in Southeast Asia.

Then on page 3 the following appears:

Amend the title so as to read: "To authorize a select committee of the House to study firsthand the recent developments in Southeast Asia and then report its findings to the House of Representatives within forty-five days of its adoption."

What is the purpose of the committee? Is it to study all aspects of the war in Southeast Asia as the first provision states, or is it to study what has happened in Southeast Asia following the invasion of Cambodia and the other facts or allegations which are alleged in the whereas clauses? What will the committee be expected to do?

Mr. MONTGOMERY. Will the gentleman permit me to try to answer the question?

I tried to state that this provides for a fact-finding committee, which will report to the gentleman from Illinois and the Congress. They will come back and report to the gentleman all the information they can get about all aspects of the war, as possible. The gentleman can take the information and handle it in any way he sees fit.

The SPEAKER. The time of the gentleman from Mississippi has again expired.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield the gentleman 2 additional minutes.

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

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

Mr. CAREY. I have been listening very carefully to the remarks of my distinguished colleague from Mississippi, because, as the primary author of the resolution, I think his viewpoint on how it should be constructed, as well as that of the committee, is most important to all of us.

The gentleman has indicated the committee should have varied points of view, should be broadly representative of the House, should be openminded and totally unbiased.

I totally support this position. I support the stricken as well as the unstricken

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whereas clauses, which are an indication of the interpretation of the author of the resolution.

I am trying to bring out that my support of the resolution is in terms of an openminded unbiased, committee. I wonder if the gentleman would agree on this point: I should like to serve on this committee the gentleman has authored. I might suggest myself to the Speaker. I should like to do all I can to get all the facts possible for this House to pass judgment on. However, I happen to be a colonel of infantry in the inactive reserve. I therefore feel my judgment could be colored by my rank in the military, and if chosen on the committee I would resign because of the affiliation with the military, and if chosen on the committee I would resign because of the affiliation with the military, in order to have no problem with respect to my judgment as a member of the military serving in the House.

Would the gentleman believe that this situation might have an effect on anyone serving on this committee?

Mr. MONTGOMERY. I think the gentleman is aiming at one of the authors of the bill, namely, myself, but if the gentleman has any objection to my serving on this committee that will be selected, I certainly believe he should make his intentions known to the Speaker.

Mr. CAREY. I certainly have no personal objection to the gentleman.

Mr. MONTGOMERY. Speaking for myself, I think I could have an unbiased opinion even though I do hold a commission in the National Guard of the United States. I feel as though I could. In the three trips that I have made over there before I feel as though I gained something.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York for purposes of debate only.

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

Mr. BINGHAM. Mr. Speaker, may I ask the gentleman from Tennessee, handling the bill on behalf of the Rules Committee, whether it is true that he has declined to yield to me for the purpose of offering an amendment?

Mr. ANDERSON of Tennessee. That is correct. Yes.

Mr. BINGHAM. Mr. Speaker, I regret that the procedure, apparently standard procedure of the Committee on Rules is that no amendment to this resolution can be considered or debated. I have prepared to offer an amendment. It was circulated to the membership last Friday, as soon as I heard about this resolution, proposing language to be added to the resolution that the Members to be appointed should be "representative of the varying points of view on the President's actions in Indochina, including both critics and supporters."

Now, with due respect to the Speaker—and I am sure the Speaker would intend to appoint representatives of varying points of view on this matter—a provision like this should be in the resolution. It would assist the Speaker in his task of appointing a representative

group. I want to state that I am not personally interested in being appointed to this study team, but I think those who share some of my views should be represented.

There are at least four major different points of view on this subject. There are those who are so strong in their opposition to the Vietnam war that they support the so-called end the war amendment, set forth in House Resolution 1000. They are those who are critical of the Cambodian operation and who were among the 145 who voted on May 7 for an opportunity to vote against extension of the war into Cambodia amendment. There are those who support the President. The fourth group comprises those who favor much stronger military action than we have taken to date.

If this committee is to be created it ought to include representatives of all these points of view. It should also include Members who will have the inclination to question what they are shown, to look behind it and to make inquiries on their own.

A story in today's New York Times shows the kind of tour that the military in Vietnam likes to arrange for visiting dignitaries, a real Potemkin village type of tour.

How many Members who will be appointed to this committee can speak Vietnamese? Probably none. But there should be some who will at least undertake to get their own interpreters, so they can talk with confidence directly to the Vietnamese people.

In short, there are all kinds of reasons why there should be a representative group on this committee.

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

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

Mr. HOWARD. I want to commend the gentleman from New York for the concern he has shown that the committee shall be representative of all the viewpoints on both sides of the Southeast Asia question. I agree with him, and I would like to state for his information that this has been the declared intent from the inception of the introduction of this resolution. I did not put my name on the resolution until after conferring with the gentleman from Mississippi and having heard that it was his intent that this be broad based. In testimony before the Committee on Rules it was discussed by the Committee on Rules, and everyone who testified that if this was going to be a worthwhile committee and an assignment on behalf of the Congress and the country, it should be broad based. I believe the Speaker has every intention of making it that.

Mr. BINGHAM. I take it that the gentleman from New Jersey shares my viewpoint that the four Members who were appointed to the President's study team from the House were representative of only one point of view on the Vietnam war and did not constitute a representative selection of the membership of the House.

Mr. HOWARD. I would not care to prejudice the President's selection, but I

would say to him I feel certain, on the basis of this resolution, that the Speaker will appoint a group to go to Southeast Asia which will be more responsive to the broad-based feelings of the Members of Congress than the group returning at the present time.

Mr. BINGHAM. I thank the gentleman for his statement, but I will nonetheless seek an opportunity to offer my amendment. To that end, I will demand a vote on the previous question on the resolution. I urge those who would support an amendment of the character I have offered or who object to the procedure which permits no amendments to vote down the previous question at the end of the debate so that we can have an opportunity to debate and vote on amendments on their merits.

Mr. HOWARD. I would hope that the gentleman would not seek a vote on that because I believe the legislative history has already been set.

Mr. MARTIN. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. HALL) for the purpose of debate only.

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

Mr. HALL. Mr. Speaker, I have listened with great interest to this debate. I have watched this resolution arise and I certainly have nothing against those who have journeyed to South Vietnam at their own expense and have come back with their own information. I have no inclination to oppose additional information of any type for the Members of the House, but with the one reminder that "information" does not become "intelligence" until it is distilled on the basis of "need to know" in the military, and is truthfully portrayed.

I have nothing against architects exercising oversight and surveillance of the many problems of the Federal Government.

But, Mr. Speaker, I feel that we need an extra commission or another group of our own or any other going into a theater of operations like South Vietnam, just about as much as we need extra holes in the head.

There have been far too many people who have gone there already. This is an area for invitation into a high-risk area, of foreign speech, by another sovereign nation, primarily. Our armed services are there on this basis and are far too busy to become impressed hosts.

We have just, by action or call of the Chair, voted an open-ended proposition on the resolving clause hereto, and we certainly are subverting and overlapping the powers of the Committee on Armed Services of this House which is properly constituted to exercise section 8, article 1 of the Constitution, to say nothing of the Defense Subcommittee on Appropriations, or the Foreign Operations Committee or the Committee on Government Operations.

The function, Mr. Speaker, of actually running the war and how it can be operated after the policy is set by Congress, for the Army, Navy, and Air Force and the broad policies such as numbers and funding set by the legislative branch of the United States—is that of the execu-

tive branch, Congress can set the broad policy as we did in the case of the Fulbright resolution, but the strategic and tactical military procedures and the "how," are constitutionally delegated to the Commander in Chief, the President of the United States.

In my opinion and for a long time, Mr. Speaker, we have had too much congressional quarterbacking and second guessing of the commanders in the theater of operations. To paraphrase, never have so many armchair generals said so much about so little they never should have said in the first place. There is unnecessary duplication.

Mr. Speaker, I am one of those who the records will show, turned down a position on the present Presidential fact-finding delegation, on the basis that somebody needed at this time to say "No, take the expense of going over there and back, which is a questionable trip, and apply it on the Federal deficit and let us protect the taxpayers at home." Especially is this applicable here in the legislative body of the people where trade, taxes, tariffs, and levies must originate.

Mr. Speaker, this is unnecessary duplication. It is a waste of the taxpayers' money. It is a chance for a "junket" with a "well-earned stopover in fair Hawaii" for a few days on the way back.

The "hawks" and "doves" are being turned into carrier-pigeons and are mimicking the myna bird.

Therefore, Mr. Speaker, I think we should vote this down out of hand, and vote down both the whereas and resolving clauses, and then I think we should vote down the entire resolution.

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

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

Mr. GROSS. Mr. Speaker, I commend my colleague from Missouri and join him in his opposition to this resolution and unjustified junket. It seems to me that the least the House could do would be to postpone action, if that is possible, until the special congressional committee that was this morning in Hawaii gets back here from Vietnam and reports.

This is a further unnecessary expenditure of the taxpayers' money at this time. Again, I agree with the gentleman in his opposition, and I hope the resolution will be voted down.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's contributions. I realize that there are some here who think that that was a window-dressing commission, and all facts will not be ascertained. I doubt if more facts can be obtained in 45 days in canned briefings by the military than were obtained in 7 days. I doubt they could learn more if setting in the RVN General Assembly in view of the language barrier. Be that as it may, an unofficial but personal count of Representatives of Congress journeying to the theater of operations indicate that over 175 have been there in the last 5 years. I think it is time we quit the feather-merchants touring to the theater of operations, and who subsequently make the convenient stopover in Hawaii on the way back, and let the

generals and the buck privates, the seamen and the admirals, the Air Force generals and the airmen, get on with winning the war, and bring our men back home safely.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield to the gentleman from North Carolina (Mr. GALIFIANAKIS) such time as he may consume.

Mr. GALIFIANAKIS. Mr. Speaker, I rise in support of House Resolution 976.

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

Mr. GALIFIANAKIS. Mr. Speaker, I rise in support of House Resolution 976, a resolution to send a select committee of House Members to Southeast Asia.

Surely this is not the time for partisan thoughts, not while American soldiers are dying every hour in Vietnam and in Cambodia. Today is not the occasion for the executive branch and the Congress to sit in opposite corners and sulk instead of joining together to end the war.

Mr. Speaker, the problem of Communist activities in Southeast Asia has now been with us for 25 years and has shadowed the terms of five Presidents and 12 Congresses. And in recent years, as public dissension over the war has increased, the conflict has begun to tear at the foundations of our Government itself.

Because we in the Congress appropriate the funds to continue the war, we have our own constitutional responsibility in military affairs. Under article I, the Congress has the power to declare war, to provide for the common defense, and to raise and support armies—with the provision that no military appropriation shall last longer than 2 years. These are clear constitutional responsibilities. It is time that we met them.

As Congressman, we must share in the burden which this war has become. And we can—if we do not play the game of obstruction—help the President to achieve his announced goal of ending the war. To do so we must meet our own constitutional obligations.

That is why I support this resolution. It is only a hesitant first step, but it is a beginning toward confronting the problem of ending the war.

This select committee will enable the Congress to reach its own conclusions about American commitment in Southeast Asia based on the facts, not on emotions or dead theories. It is answerable to the Congress and to no one else. I would not predict what information the committee might bring back, of whether that information would sustain, supplement, or differ from the information of other sources.

Mr. Speaker, during his campaign, the President announced that he would try to bring us together. On no issue is it more important that we come together than on the way to end the war. If we do not work this goal—Congress and President, Republicans and Democrats—then the war will continue like a machine that is beyond our control.

But if we do cooperate, then we can end the war and end it safely and quickly. And we can do much to restore the proper role of the Congress in foreign policy by

meeting the constitutional responsibilities which have been evaded for so long.

I urge each of my colleagues to give favorable consideration to this resolution. It is not a partisan attempt to detract from the President. Rather, it is an effort to provide the Congress with the facts to act intelligently—in concert with the administration, and not against it.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. ROSENTHAL) for the purpose of debate only.

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

Mr. ROSENTHAL. Mr. Speaker, I come to the same conclusion as the distinguished gentleman from Missouri, but I think for somewhat different reasons.

Very candidly, the operative language in the resolution suggests that the select committee shall proceed to Southeast Asia to investigate all aspects of the U.S. military involvement in Southeast Asia. I am one of those who believe that Congressmen can learn a great deal from being out in the field, and I have urged all my colleagues to travel the world over to learn about our military involvement and foreign aid institutions, but in this connection I think we ought to just hesitate for a moment.

The fact of the matter is that we do have committees of Congress constitutionally charged with these responsibilities. I feel personally aggrieved that the Committee on Foreign Affairs is shunted aside while this special committee is raised to stardom to render what could be a very important report, and have a very significant public relations aspect on the American public.

My view of why this would not be useful at this time is that if any Member of the Congress is legitimately interested in all aspects of the U.S. military involvement in Southeast Asia, then the way to properly do this is to hold open public hearings on the basis for our involvement in Southeast Asia. There should be a review and analysis of the secret treaties and commitments that the U.S. Government is involved in in Southeast Asia.

If this visit is going to be a quickie military inspection of Cambodia and the caches involved, then may I say it is going to turn into a charade and virtually a whitewash, and then it would do a great disservice to this body that we all have the greatest respect and affection for.

Frankly, I feel aggrieved that more senior members of the Committee on Foreign Affairs did not see fit to make this argument, but the fact of the matter is that that committee has indeed the responsibility and ability and the wherewithal to conduct this kind of investigation. One military investigation will lead to another. We will find out that we collected x number of rifles and have reported x number of dead.

But the American people—and they should be genuinely concerned in what we are doing in Southeast Asia—should listen to all sides of the case, and to what George Ball said before our com-

mittee the other day, when he said that he regretted the decisions that the Nixon administration has so far taken with respect to Cambodia, because it is a repeat of the fateful earlier decisions taken by its predecessors. And he said, in leading up to that:

We mistook Tonkinese aggression for Chinese imperialism and, falling to scrutinize the menace in terms of its marginal relevance to the power balance, we committed the power at our command to a terrain where, for both physical and political reasons, it was impossible to use it effectively.

Mr. Speaker, there are political issues and answers to the problem of Southeast Asia and until those political issues can be settled the involvement of the United States will not be terminated. For that reason, I oppose this resolution.

Mr. MARTIN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. FULTON) for the purpose of debate only.

Mr. FULTON of Pennsylvania. Mr. Speaker, in times of emergency and in times of pressure, there is often made poor law by those having the responsibility of decision. This House of Representatives should take the time to debate extensively and in depth what is meant by this resolution, House Resolution 976. It is amazing to find such broad cosponsorship by Members, and such disagreement as to what the resolution means. For example, to strike the preamble from the resolution, strikes the reason for the resolution, the area of reference and constitutional responsibilities of the Congress, as well as the need for Congress to have accurate and detailed information, from the bill. Is this expedition of House Members to set out to Southeast Asia with the general instruction "to investigate all aspects of the United States military involvement in Southeast Asia," as a line and a half on page 2 of the resolution provides? One half of line 8, and line 9 on page 2 of the bill are the only authority for a world-shaking investigation officially made on behalf of the House of Representatives. Imagine making the investigation in depth for the purpose of U.S. official congressional action, with no hearings, no witnesses, no sources, no checking of briefings by military personnel of our own, or any other country, with the requirement of report shall be made within 45 days of adoption of the resolution. Queen Isabella did better in her instructions to Columbus.

The House of Representatives has formally set up standing committees that have jurisdiction of the military policy in this House the Armed Services Committee, and we have a committee on the relations with foreign countries, the Foreign Affairs Committee of this House. The House has given jurisdiction of obligation and expenditure of Federal funds to the Committee on Appropriations, with the particular appropriation subcommittees, who have jurisdiction of these various elements of U.S. monetary and financial commitments abroad, stemming from everything from U.S. aid of a military type to peacetime economic and development aid, even to education and cultural welfare programs.

I raise a question on what is meant by the vague generality on page 2, line 9, "in Southeast Asia." Our study committee of the House Foreign Affairs Committee went to nine countries in South and East Asia: Vietnam, Thailand, Philippines, Formosa, Okinawa, Japan, South Korea, India, and Pakistan, and also Hong Kong. We were unable to cover Australia, New Guinea, New Zealand, Indonesia, Malaysia, Burma. How can South Korea with 47,000 troops fighting in South Vietnam be ignored? Seoul is certainly not in Southeast Asia, nor is Tokyo, and so forth.

What countries comprise the term "Southeast Asia"? This can be any number of countries. It is not just a few countries. Does this just include North Vietnam, Laos, and Cambodia? Of course not. Such a limited view and such a limited study, as proposed, is not only impossible, imbecilic, but dangerous. "Facts" based on this study can very adversely affect the carrying on of the war, but our U.S. relations around the world, our many U.S. treaty commitments, and cause disruption of well-founded and longtime friendly relations with many countries.

Second, is this resolution meant to be limited to authorization for an investigation of facts? What kind of facts? Or is it an investigation of U.S. policy? Is that U.S. military policy? Is it U.S. foreign relations policy? Economic or trade policy? Is it U.S. foreign aid policy? Is it CIA policy?

When the resolution says "all aspects" that, of course, includes military policy all around the world because any of the great powers and their allies, even non-aligned countries, have some influence in Southeast Asia. The world is such an untidy place, and this resolution is such a small broom. We Members on the Foreign Affairs Committee who have studied, read volumes of history, heard thousands of witnesses on world conditions, causes, and probabilities, peoples, customs, and wars and disruptions, can hardly wait for this report in 45 days with the "true facts." When this report is made, it may disagree with the investigators who are just now on their way back, the President's factfinding commission. If the reports are each unanimous then no member of the investigations is thinking very much, or very deeply. If these reports disagree with the State Department, the CIA, in what position does this put the Members of Congress who have already served on the regularly constituted and standing committees of the U.S. House of Representatives who have jurisdiction in these very fields and what is more, the responsibility for action, and not just debate?

What does the President of the United States, or the Joint Chiefs of Staff, do with the "facts" found by the President's own current fact-finding commission, if there is a disagreement?

Should the U.S. Congress have the responsibility for the day-to-day running of a war 10,000 miles away in an area that most Members have never been nor had any experience? My answer is the answer of the U.S. Constitution, "No." I

have spent almost a year in the Orient after my graduation from Harvard Law School, have been a member of the House Foreign Affairs Committee almost 20 years, have visited these countries from time to time, and have studied, listened to experienced witnesses, read volumes of history and current events, but I would refuse to serve on any such select committee with such little time, shallow investigation, and forced quick judgment.

I strongly believe we should have some considered answers before the House quickly sponsors another "study" committee with no legislative jurisdiction but which is simply to make a quick report in 45 days.

I would ask the managers of the resolution specifically—Is it facts that the select committee is looking for or is it policy that they are looking for?

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

Mr. FULTON of Pennsylvania. I yield to the gentleman.

Mr. GRAY. I know that my friend is sincere in his remarks, but I just heard that the factfinding committee to which he alluded is on its way back after 2 days. Does the gentleman from Pennsylvania really believe that a searching inquiry could be made in a small time period of 48 hours?

Mr. FULTON of Pennsylvania. You are right; I do not. I do not believe a conducted military tour or State Department tour of House Members is going to come up with very many facts, upon which the judgment of the Members of the House should rest, in decisions involving the very lives and security of the men in our U.S. Armed Forces, as well as the freedom and security of the citizens of the countries of Southeast Asia. Here we have a committee such as this select committee which goes to Southeast Asia really with no specific instructions as to what to do and they are just taken around, and shown fragments, and preordered spots. Who makes the decisions why they may be taken to certain places?

In 1965, with the Asian Subcommittee of the House Foreign Affairs Committee, we made a long and serious study of the Asian situation at first hand, visiting nine countries, including Vietnam. We studied to prepare for the trip, consulted with heads of state, foreign ministers, military leaders, members of parliaments, business and labor leaders, religious members of many faiths, studied when we came back, and made recommendations against escalation of U.S. military forces in Vietnam at that time, 1965. Our study committee report was filed as House Report No. 1345 of the 89th Congress, second session. It contains 89 pages and much reference material. I would strongly advise the Members generally, as well as the select committees, to study this excellent source material.

The question is this, is the House to have this committee come back and comment on escalation or on deescalation on further U.S. involvement in Cambodia, Laos, and Thailand? On immediate withdrawal of U.S. forces, Vietnamization?

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I have always opposed committing U.S. ground troops to a land war in Asia. I have studied the strategy carefully and will give the basis of my opinion, through statements and studies by most competent U.S. officials.

I read into my comments the warnings of our U.S. military leaders from the U.S. News & World Report issue of April 26, 1966, in the article "Should United States Fight a Land War in Asia? Views of Military Leaders," as follows:

SHOULD UNITED STATES FIGHT A LAND WAR IN ASIA? VIEWS OF MILITARY LEADERS

The question of U.S. troops' fighting a land war in Asia is up for debate again. In the past, most U.S. military men have opposed getting tied down with ground forces so far from home. Now, as the number of Americans in South Vietnam increases, military observers are giving the problem a new look.

Below is what some prominent officials have had to say on the subject in the two decades since World War II.

Douglas MacArthur, late General of the Army:

"No man in his right mind would advocate sending our own ground forces into continental China."—*Address to Congress, April 19, 1951.*

Omar Bradley, General of the Army, former Chairman, Joint Chiefs of Staff:

"I do not believe we should get involved in a land war in Asia if we can possibly avoid it. . . . It of course depends on the circumstances at the time, but right now I feel as I said in my statement here, I think we would be fighting a wrong war at the wrong place and against a wrong enemy."—*Congressional Hearings, May, 1951.*

Dwight D. Eisenhower, former President:

"I told my associates in January of 1954 that I could not at that moment see the value of putting United States ground forces in Southeast Asia. . . . If the United States were, unilaterally, to permit its forces to be drawn into conflict in Indo-China and in a succession of Asian wars, and end result would be to drain off our resources and to weaken our overall defensive position.

"If we, without allies, should ever find ourselves fighting at various places all over the region, and if Red Chinese aggressive participation were clearly identified, then we could scarcely avoid, I said, considering the necessity of striking directly at the head instead of the tail of the snake, Red China itself."—*From President Eisenhower's book, "Mandate for Change," which was published by Doubleday and Company, Inc., in 1963.*

Maxwell D. Taylor, General, former Chairman, Joint Chiefs of Staff, and former Ambassador to South Vietnam:

"I have been among the officers who have said that a large land war in Asia is the last thing we should undertake. I was slow in joining with those who recommended the introduction of ground forces in South Vietnam."—*Interview published in "U.S. News & World Report" on Feb. 21, 1966.*

I am also reading into my comments the excellent study by the Legislative Reference Service of the Library of Congress of July 13, 1965, entitled "Land War in Asia: views of Generals MacArthur, Bradley, and Eisenhower," by Thomas C. Lyons Jr. Analyst in Military Affairs and World Demography of the Foreign Affairs Division.

This study impressed me strongly after our study trip to Southeast Asia in 1965.

LAND WAR IN ASIA: VIEWS OF GENERALS MACARTHUR, BRADLEY, AND EISENHOWER

In light of the present situation in Viet Nam, it has been stated on a number of occasions, especially in the American newspapers, that three well-known and respected

American generals, one of whom is a former President of the United States, had warned of the inadvisability of placing large numbers of American ground troops in Asia for the purpose of fighting a land war. The purpose of this brief paper is to present those views in the context in which they were given.

DOUGLAS MACARTHUR¹

Senator McMAHON. . . . General, your recommendations for operations in China would still be a limited war. We would not commit American ground forces to the operation in China under any circumstances, as I understand it.

General MACARTHUR. I would not advise it; no sir. That is, of course, with the general limitation of the contingencies of campaign.

I believe it would be master folly to contemplate the use of United States ground troops in China. I do not believe it would be necessary. (p. 103)

Senator KEFAUVER. But you said, General MacArthur, you nor no one else had recommended that American troops actually engage in any part of the ground warfare on the continent, in China proper; that it be limited to blockade and bombing by air and reconnaissance by air.

I wondered if any substantial number of technicians actually went along with Chiang's troops, what kind of situation that puts us in.

General MACARTHUR. I see no objection to it at all, Senator. It is common practice. We have had our advisers with them in the past. We have had missions there. We had a mission in Greece. We have got missions in a great many countries. They go and advise, but it does not commit us beyond the technicality of the assistance that the individuals can render.

I don't think it would be material one way or another whether they went in with them or not, as far as the efficacy of the forces is concerned. I can see no reason why if our Air and our Navy are engaged against the Red Chinese, and our troops in Korea are engaged against the Red Chinese why the use of a few hundred technicians would be a matter of any serious import.

My recommendation that ground troops should not be committed to China was not on the basis of avoiding any concept that we were not utilizing our force to the maximum. It was because of the sacrifice that would be involved in our forces because of our inability with our bases 10,000 miles away to maintain large units of ground troops there.

I had nothing to do with anything except a military decision that ground troops should not be committed in force—our ground troops.

Senator KEFAUVER. As I understand, your conception was based upon our inability to get enough troops there, and that you have no feeling that if we had sufficient ground troops, that we shouldn't use them on the continent of Asia, on the mainland of China proper.

General MACARTHUR. I believe that as a strategic conception it is an impossible one, sir. I do not believe . . .

Senator KEFAUVER. Your conception is based upon the feeling that we do not have sufficient troops to accomplish that purpose; is that correct?

General MACARTHUR. That is one of the reasons. Another reason is that the manpower of those countries is sufficient; if we aid and assist them in their training and in

their supply features, they do not need the assistance of our ground forces. They would need assistance probably from the Air and the Navy. (pp. 106-107)

Senator CAIN. General MacArthur, Morgan Beatty of the National Broadcasting Co. said in a recent hook-up that on the 26th day of last June, General MacArthur himself made the following statement to Ambassador Dulles and to accredited news reporters:

Anybody who commits the land power of the United States on the continent of Asia ought to have his head examined. May I inquire if you recall having made such a statement to Ambassador Dulles?

General MACARTHUR. I don't know whether I made the statement, but I confirm absolutely the sentiments involved.

Senator CAIN. This reference to Morgan Beatty was made by a colleague of mine, who thought that you, General MacArthur, had made that statement to Beatty on June 26, and at a later date had said something different.

The Senator to whom I refer went on to say that, with reference to the Beatty statement:

"I say that I not only agree with that, but I believe that any man in a responsible position in our military forces who would do that, which would amount to committing our land forces against Red China on the mainland of China, not only ought to have his physical head examined, but ought to have his official head cut off."

May I inquire if, in your opinion, there is any legitimate reference to any attitude of yours, or any kind, character or description, in that comment made on the 11th day of April, on the floor of the United States Senate?

General MACARTHUR. None whatsoever; and the other comments—all I can say as to them—"Amen." (pp. 156-157)

OMAR BRADLEY²

Senator BRIDGES. What about Korea—when we entered the Korea conflict a day or two after June 25, 1950, did the Joint Chiefs of Staff take into consideration all of the potential risks at that time militarily?

General BRADLEY. Yes sir. We had always hoped we would not have to fight in Korea, and that's why we were in favor of getting out of Korea as far as our occupation was concerned. Because strategically it is a poor place to fight. And we did consider these things at the time the question of interceding in Korea was taken.

Senator BRIDGES. Now you are of the theory that has been expressed here that we should not get involved in a land war on the mainland of Asia?

General BRADLEY. Yes. I do not believe we should get involved in a land war in Asia if we can possibly avoid it.

Senator BRIDGES. Then you do not agree with a certain United States Senator who said the other day that in case Communist China or Russia attacked India we would be in war in an hour, or something like that?

General BRADLEY. I did not hear the statement. I still repeat that I would hate very much to see us involved in a land war in Asia.

Senator BRIDGES. Then what I am getting at, you are consistent whether it is China, Indochina, India, or Siam or what not, you have a basic thought for considering all factors that we should not be involved with our own troops on the mainland of Asia.

General BRADLEY. It of course depends on

¹ All MacArthur quotations from: Military Situation in the Far East. Hearings before the Committee on Armed Services and the Committee on Foreign Relations, United States Senate. 82d Cong., 1st Sess. Part I. Washington, U.S. Govt. Print. Off., 1951. (May 3 through May 14, 1951.)

² The Bradley quotation is from: Military Situation in the Far East. Hearings before the Committee on Armed Services and the Committee on Foreign Relations, United States Senate. 82d Cong., 1st Sess. Part 2. Washington, U.S. Govt. Print. Off., 1951. (May 15 through May 31, 1951.)

the circumstances at the time, but right now I feel as I said in my statement here, I think we would be fighting a wrong war at the wrong place and against a wrong enemy. (p. 753)

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DWIGHT D. EISENHOWER³

General Eisenhower's views on Viet Nam are clearly defined and explained in Chapter XIV of his book, *Mandate for Change*. The Chapter gives the reader a clear insight into how one President tried to cope with the diplomatic and military situation during the time of the French fighting in Indochina.

Early in 1954, Eisenhower wrote that he had the following thoughts on the war on Viet Nam:

"Another consideration in any conceivable intervention was the type of forces which might be employed. There seemed to be no dearth of defensive ground strength in Indochina. I told my associates in January of 1954 that I could not at that moment see the value of putting United States ground forces in Southeast Asia.

"One possibility was to support the French with air strikes, possibly from carriers, on Communist installations around Dien Bien Phu. There were grave doubts in my mind about the effectiveness of such air strikes on deployed troops where good cover was plentiful. Employment of air strikes alone to support French forces in the jungle would create a double jeopardy; it would comprise an act of war and would also entail the risk of having intervened and lost. Air power might be temporarily beneficial to French morale, but I had no intention of using United States forces in any limited action when the force employed would probably not be decisively effective." (p. 341)

Throughout early 1954 Eisenhower and Dulles tried to sell the idea abroad that any American intervention in the fighting would have to meet at least two qualifications: One, there would have to be approval from Congress, and two, American ground troops would be committed to Viet Nam only if there were several Allied countries joining simultaneously in the fighting.

On April 4, 1954, President Eisenhower wrote to Winston Churchill explaining his ideas of a "regional grouping" of several countries, who would come to the aid of the French forces. Near the end of the letter, the following sentences appear: "The important thing is that the coalition be strong and it must be willing to poin the fight if necessary. I do not envisage the need of any appreciable ground forces on your or our part. . . ." [Emphasis added.] p. 347)

As events at Dien Bien Phu were coming to a devastating conclusion and the meetings in Geneva were starting to go into high gear, President Eisenhower wrote to General Gruenther at NATO headquarters:

"As you know, you and I started more than three years ago trying to convince the French that they could not win the Indochina war and particularly could not get real American support in that region unless they would unequivocally pledge independence to the Associated States upon the achievement of military victory. Along with this—indeed as a corollary to it—this Administration has been arguing that no Western power can go to Asia militarily, except as one of a concert of powers, which concert must include local Asiatic peoples." (p. 352)

As the situation at Dien Bien Phu became hopelessly lost, Eisenhower commented in the following way:

"We discussed once more the possibility of United States intervention by an air

strike in Indochina. Although the three service chiefs—Army, Navy, Air Force—had recommended against this course, there was some merit in the argument that the psychological effect of an air strike would raise French and Vietnamese morale and improve, at least temporarily, the entire situation.

"During the course of this meeting I remarked that if the United States were, unilaterally, to permit its forces to be drawn into conflict in Indochina and in a succession of Asian wars, the end result would be to drain off our resources and to weaken our over-all defensive position. If we, without allies should ever find ourselves fighting at various places all over the region, and if Red Chinese aggressive participation were clearly identified, then we could scarcely avoid, I said, considering the necessity of striking directly at the head instead of the tail of the snake, Red China itself." (p. 354)

Throughout this chapter there are a number of inferences that Eisenhower had serious reservations about engaging the Communists with all-out military force in Indochina.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HANNA).

Mr. HANNA. Mr. Speaker, you see my name on this resolution, and I do not cavalierly or casually sign anything in this House.

I became a signer of this particular resolution for three reasons—the first because I appreciate and understand the beliefs of the American people. The American people believe that Congress ought to have a balance of power with the President. The American people have just learned that the President has sent his group out to back up or to bring a report on the basis of his action. They think, and they question in my district and I suspect some in your districts, are questioning and wondering what the Congress is doing.

I think the fact that the President did name this commission on his behalf is even more strongly an argument why the House should take the action suggested by this resolution. You may say that what people believe is wrong, and you may be right. Beliefs are often operative facts. I remind Members of the story of Othello. We as readers know that none of the things Othello believed about his wife are true, but she is just as dead in the third act as if they were true. That is the operative effect of belief.

The American people believe that the American Congress ought to be more active in terms of the problems in Vietnam. I think we ought to back up that belief by an examination to find out what the facts are and the answers to questions that have been raised and especially to those that have not yet been raised.

Some Members have spoken about a military review. I am not interested, and I hope that the committee will not be interested in jawboning or justifying what has been done. The important question to us is, What has happened to the options for our policy in Vietnam? We have to have an assessment of those options that is independent so that we can take our stand on the basis of our power as an independent branch of Government.

Mr. Speaker, I have two other reasons for backing this resolution. The next reason is the House needs to have en-

lightenment on the status of our existing options.

Third, because of the need of the House to find alternatives to our military involvement in Vietnam, we ought to support the resolution. When we take out 500,000 men, we are going to be doing something to the economy of that country which must be balanced out. When we begin to remove our troops, we leave our installations, and I am anxious to know where the \$3 to \$6 billion of investment in installations is going. The House should have the answer to such questions. I hope the House will go out and find the answer to these questions.

I thank the gentleman for yielding.

Mr. MARTIN. Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire (Mr. CLEVELAND).

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

Mr. CLEVELAND. Mr. Speaker, as one of the cosponsors of the resolution, I rise in support of the resolution and commend the gentleman from Mississippi for taking the initiative in sponsoring the legislation. I subscribe to most of the reasons that have already been stated for supporting the resolution.

I would like to make a couple of additional comments. I find it strange indeed that some of the people who are opposing the resolution on the floor of the House are echoing the same sentiments, and are talking about getting all sides of the spectrum represented. I have great confidence in the leadership of this House that it will be fair in selecting this committee. But those gentlemen who are questioning this resolution are precisely akin to some people who have been coming into my office day after day after day for the last 45 days, and they have been saying, "Oh, is it not terrible. Is it not terrible. The President is too powerful. The Congress should take action but they are not doing anything."

Here is a chance for Congress to do something. I commend the gentleman from Mississippi for taking the initiative in doing something. The point many people are missing in discussing the balance of power between the Executive and Congress is the fact that if an imbalance exists and I think it does, a contributing factor is the failure of Congress to reform its procedures as a first step toward redressing that imbalance.

The other point I wish to make in support of this resolution is that although it is perfectly true that there are other committees of this House which may have jurisdiction in this general area, the sad fact of the matter is that for the time being, at least, those committees do not appear to be acting in this area. I commend the gentleman from Mississippi for taking the initiative.

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

Mr. CLEVELAND. I yield to the gentleman from Ohio.

Mr. HAYS. Just because someone happens to oppose this resolution is no sign they are all in the category you are talking about.

³ All Eisenhower quotations from: *Mandate for Change*. Dwight D. Eisenhower. Garden City, New York, Doubleday and Company, Inc., 1963. Chapter XIV, "Chaos in Indochina."

Mr. CLEVELAND. If I made that implication, I take it back. I said "some of them." That is what I really meant to say. I did not mean to include the gentleman from Ohio.

Mr. Speaker, I yield back the balance of my time.

Mr. MARTIN. Mr. Speaker, I yield 10 minutes to the gentleman from California (Mr. HOSMER).

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

Mr. HOSMER. Mr. Speaker, I certainly do not feel that either the Armed Services Committee of the House or the Foreign Affairs Committee has slackened in any way in its attention to matters having to do with Southeast Asia or any part of that area. This resolution to my mind is not in response to that kind of situation or anything of that nature. These two regular standing committees have general longtime jurisdiction of all kinds in the area of their definition, and to have a select committee to find facts with respect to a particular ad hoc situation has long been the practice of this body.

That is all that is being sought by the resolution before us. It is in response to the fact that there is in this country a tremendous interest at this point in the military affair in Southeast Asia. Many people have come to Washington not only to make their views and concerns about this war known to the President of the United States, but, as each Member of this body well knows, they have also come to Capitol Hill to make their views known to their elected representatives in the legislative branch of this Government of ours.

To ignore a responsibility in respect to the war and to state that it is a matter solely in the jurisdiction of the executive branch is to ignore the very basic division of powers and responsibilities of our Government which are shared by the three branches and which this legislative branch has since the beginning of the situation in Southeast Asia had to assume considerable responsibility.

Mr. ANDREWS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Alabama.

Mr. ANDREWS of Alabama. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I support this resolution. I want to express the prayerful hope that those who are appointed to go to South Vietnam and to Southeast Asia do not come back brainwashed as many did who have been over there.

I have been on the Defense Appropriation Committee for years. I have had all kinds of glowing promises made about the war. At one time we were told by our former Secretary of Defense that the boys would be home by Christmas. The next year he said that now we see the end of the tunnel. The next year he said that we have stopped losing the war. Then the next year he said that we are winning the war. I am threadbare with these glowing pictures painted by those who go over there. Again I say, my prayerful hope is that those who go will not

be brainwashed by certain people in South Vietnam.

Mr. HOSMER. Mr. Speaker, I thank the gentleman from Alabama. I think what the gentleman has said is quite important.

It is quite important also that this body have its own independent judgment and knowledge with respect to such recent developments as the Vietnamization program and how good it is, and how fast the armed forces of Vietnam are coming along in order to assume the burden of that war, and how well pacification is coming along, and how realistic is the pace of withdrawal that has been announced by the executive branch of the Government. What can we tell the people we represent about these things? They ask us. They expect us to know. We have a responsibility to find out for ourselves.

Further, I hope if it is at all possible that the select committee might be able to turn up facts which would be helpful in the prisoners-of-war problem.

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

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

Mr. WOLFF. Mr. Chairman, I want to make a comment relative to the committee appointed by President Johnson at the time of the elections in South Vietnam, when I had suggested a committee such as the one being suggested today. The committee was appointed and went out. I did not serve as a member of that committee, but I went out there on my own, and strangely enough the committee appointed by the President viewed the elections from the Caravelle Hotel and had very little time in the countryside.

I think an important point was an observation made by one of the gentlemen before, that if this committee goes out, it must have some Vietnamese interpreters, so the members can understand what is going on and not be led around by the nose as the previous committees have been.

Mr. HOSMER. I thank the gentleman from New York for his comments about the previous committee that went there to observe the election several years ago. It triggers my mind to state what the relationship might be between this proposed select committee and the committee sent to Vietnam by the President.

In the first place, that is an executive committee. Its itinerary and its actions and its makeup were determined by the executive department. It functions under and serves that branch of Government.

I would hope that the select committee, if formed, would give due consideration to whatever facts are determined by that Presidential committee, use whatever information it found available from it, but would cover the bases which had not been covered by that committee and would cover the bases which needed to be covered more thoroughly than it has covered during its short existence.

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

Mr. HOSMER. I am delighted to yield to the gentleman from Missouri.

Mr. RANDALL. I presume the gentleman from California is speaking in support of the resolution? Does he have any information as to the accuracy of the figures given by the gentleman from Missouri (Mr. HALL) who said 173 Members of Congress had made factfinding trips to Vietnam? Does the gentleman know whether the number has been 175 or 200 or more?

Mr. HOSMER. I do not have the figure. I know many of the Congressmen, in response to their responsibility as high officials of the U.S. Government, to handle whatever questions the Congress has to handle, have felt it wise to go out there. I know that the gentleman himself has taken the time and trouble to do so.

Mr. RANDALL. Yes, you will recall we were in Vietnam, you as a member of the Joint Atomic Energy Committee and myself as a member of the Committee on Armed Services. I recall we were there together in January 1968 just prior to the Tet offensive of that year. Does the gentleman feel that our trip was completely successful and we were able to get all the facts we would hope or preferred to have come home with? I cannot speak for the gentleman from California but the only time I felt I was really learning anything or not being led about to see only what we should see, was when I managed to separate myself from our escorts on two different afternoons. I learned more on those two days than all the other time combined. The reason was I was not in company with the military, and without an escort. During those hours, I saw and learned much more than when I was guided and directed where to go and what to do.

Mr. Speaker, I have no way to know by what vote of the Rules Committee this resolution comes to the floor today. Like other Members, I can observe that House Resolution 976 has portions struck through and other portions printed in italics which indicate it is a much changed resolution from that which was submitted by the joint sponsor of the resolution.

There are several reasons why I cannot support this resolution. The foremost reason is that some portions of the resolutions are inconsistent with other portions. In other words it is inconsistent within itself. It is an incongruous document. To emphasize such a charge one has only to look at page 2, line 7 where it is stated the select committee is to proceed immediately to Southeast Asia to investigate all aspects of our involvement there. Then on page 3 after line 3, the title has been amended to state that the purpose of this resolution is to authorize the select committee of the House to study the recent developments of Southeast Asia. Thus while on page 2 the committee is charged to investigate all aspects of our involvement, on page 3 they are excused from such strenuous duties and permitted to investigate only recent developments. Perhaps that was a well taken afterthought because no committee no matter how efficient or no matter how large a staff can accomplish a very thorough investigation of all aspects of

our involvement and proceed to write any kind of a report on the results of their investigation within 45 days. It is just not humanly possible. Yet that is what the committee is required to do under the language of line 10 on page 2 of the resolution.

The second reason that prompts me to oppose this resolution is that the preamble which should serve as a guideline to the select committee has been stricken. That preamble contained three paragraphs, the first of which is not factually true but the second and third paragraphs should have been retained to serve as directions of the House to the select committee which it is creating by this resolution.

Mr. HOSMER. Everyone has his own techniques for obtaining and evaluating information.

I may say to the gentleman, until one gets to the Congress itself, even, one really does not understand what this great institution really is and its manifold implications. That is an indication of the value of personally taking a look at things which you should know about if you are to deal with them responsibly.

And, I would like to respond to whoever brought up the matter of a reservist being unable to function fairly on this select committee. The purpose of the committee is to ascertain facts, not whitewash anybody and it could not do so if it wanted to. It appears to me that a person with some past or present military experience might better be able to determine the facts than someone else. At least, he would understand the lingo.

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

Mr. HOSMER. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. In answer to the gentleman from Missouri (Mr. HALL) said that there were about 175 Members who had been to Vietnam during the war years. We have been over there about 6 years. If we divide six into 175 we get an average of less than 30 Members per year who have been over there.

Mr. HOSMER. Which averages 2½ per month.

Mr. MONTGOMERY. It seems to me that less than 30 Members a year going to Vietnam is certainly not too many.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

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

Mr. DE LA GARZA. I should like to ask a question, but first I should like to make a statement.

The men in Vietnam are doing their duty in winning that aspect of the war. We are losing it back here. What earthly reason could we have to go there and investigate policy formulated here in the State Department, here at the White House and here at the Pentagon? What could we learn about policy at the battlefield in Vietnam?

Mr. HOSMER. I am going to regard the gentleman's words as entirely a statement rather than in part a question.

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

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

Mr. BIAGGI. I thank the gentleman for yielding.

I rise in support of this resolution.

With relation to the question of economy I believe this is a poor time to permit such a minuscule sum of money to interfere with any action that would aid in resolving the overriding problem of our Nation—the war in Southeast Asia.

Intelligence comes in many and varied forms. If the select committee is properly apportioned and selected Congress and the Nation can only benefit.

However, my relationship with military investigation has been extensive and enlightening. I can assure the gentleman that if the committee follows the prescribed route I would suggest very strongly it would result in an exercise and be nothing more than a futile effort.

My productivity increased when I ceased to inform the military of my presence on military installations in the course of conducting investigations of abuses on the various bases throughout the country.

I suggest strongly that this committee be sent. However, before they embark they should uncover or develop sources of information so that they will have contacts when they get there. The opponents of this resolution bewilder me in the light of hue and cry across the Nation seeking an end to the war and greater participation by Congress. This is Congress' constitutional prerogative and duty. Hence it ill behooves anyone to deny Members of the House any source of information. This source may well be received with greater creditability than some have been provided to date, and is oft contradictory.

Mr. HOSMER. If the gentleman will permit me to say this, I believe we can find 12 Members in this House who are not about to be conned by anybody, who can come back with facts upon which their colleagues can rely.

Let me say further that, after listening to the copious words of tribute to the Speaker only a week or two ago, I think we can feel full confidence in his ability and determination to form a balanced committee which will do its job in a balanced way.

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

Mr. HOSMER. I yield to the gentleman from Ohio.

Mr. HAYS. I would like to make a suggestion. Since it is going to take a couple of battalions to protect these 12, and since the gentleman from Mississippi thinks that everybody wants to take a look, I do not want to go, but I think the other 422 plus the 12 should be sent over and give them all a rifle, and in that way we can release the two battalions from having to give protection to them.

Mr. HOSMER. Let me say, having been there a couple of times, that the gentleman's statement is an exaggeration by at least two battalions.

Mr. PRICE of Texas. Mr. Speaker, as one of the original sponsors of the proposal, I urge my colleagues to lend their support to House Resolution 976, a bill to authorize a 12-man select committee

to go to Southeast Asia, study first hand recent developments in the area, and within 30 days from its inception report its findings to the House. In this connection, I commend the distinguished gentleman from Mississippi (Mr. MONTGOMERY) for his dedicated and tireless efforts which have been instrumental in bringing this proposal before the House today.

In my judgment, the need for this committee is in no way diminished by the fact that the President's special fact-finding commission is in the process of compiling a report on its trip to the battle zone. I believe the House should act to provide a balance to the President's commission because although the fact-finding group certainly will provide a valuable service to the country by virtue of its activities and report, I believe the situation in Southeast Asia to be so complex that more than 96 hours would be need to be spent in the area if any individual or group were to obtain the most functional perspective.

Mr. Speaker, the bill before the House would provide a 30-day investigation and report period. This would be far more appropriate a time frame to operate under. I say this based on personal experience, for 2 years ago I spent approximately 1 week touring the embattled area of South Vietnam. In the course of my travels I achieved a much greater understanding of the forces at work in Vietnam and the progress we were making in the war; however, I believe my perception and judgments would have been even more acute had I been able to spend more time in the country itself.

Mr. Speaker, I believe this select committee would provide an extremely valuable internal factfinding instrument for the House of Representatives. As such it would provide a needed balance in the present reporting mix on the status and level of our current involvement in Southeast Asia. This balance would be enhanced by the Speaker's insuring that the 12 Members appointed to the committee will be of varying points of view with regard to present policies in Southeast Asia. This issue is far too important for its resolution to be affected by partisan politics, or political ambitions.

I urge the passage of House Resolution 976.

Mr. ANDERSON of Tennessee. Mr. Speaker, for the purposes of debate only I yield 2 minutes to the distinguished gentleman from California (Mr. Moss).

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

Mr. MOSS. Mr. Speaker, this resolution, if adopted, will create something that cannot possibly work. For 15 years, I have chaired investigating committees of this House. One of them has gone out to Vietnam at least three times in the last 4 years and it has taken literally months of careful and diligent work in advance of the committee going out in order to have information showing where investigative effort should be concentrated to produce any meaningful results. This contemplates immediate departure upon adoption. It will take 45 days to find a competent staff. Yet the commit-

tee must go out, investigate, and report back. I can assure you, again speaking from a great deal of experience, that you cannot do it. It just is not within the realm of possibility. You can have 45 men who will go out and look and see and learn something, but they will not make a comprehensive investigation of even the activity in Vietnam much less the involvement in Cambodia, in Laos, or in Thailand. This is self-delusion.

Mr. Speaker, I would strongly urge that the House not indulge in it. Let us, if we are going to have a committee, give them the time, give them the staff, and let them go out and do the kind of a job that this Congress is worthy of producing. Let us not give an inferior product hastily put together to the American people.

Mr. MARTIN. Mr. Speaker, I yield such time as he may use to the gentleman from Ohio (Mr. TAFT).

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

Mr. TAFT. Mr. Speaker, with many reservations I will support this resolution on the chance that it will produce even one iota of information that will be helpful in bringing about a peaceful solution and in preventing future Vietnams. Properly, it would be preferable for the Foreign Affairs Committee to have acted to provide the background on present, past, or future foreign policy aspects of the problem, with other standing committees making appropriate inquiries within their jurisdictions.

But my feeling is that these committees do not seem to have handled the problem comprehensively to date, nor have executive factfindings done so.

It is essential that the Congress, and especially the House, strengthen its role in factfinding and policy formation in foreign affairs. Perhaps the proposed commission can help do that. If so it will be worth the effort.

Mr. MARTIN. Mr. Speaker, I would like to confirm what the gentleman from California (Mr. SISK) said earlier in the debate; that is, it is the policy of the Committee on Rules to eliminate all "whereases" in the resolutions that are reported out of the Committee on Rules. This has been a standard practice for many years, and that is the reason why, as the gentleman from California explained, the "whereases" in the preamble of this resolution were eliminated. It was to follow out the general policies of the Committee on Rules over the past many years.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. CAREY).

Mr. CAREY. Mr. Speaker, I rise in support of this resolution. I am convinced we can do no more than profit by all of the information we get in any manner on what is going on in Southeast Asia. I rise because I support the integrity of every Member of this body and the belief that they will go out and do a fair factfinding job and come back with valuable knowledge, and, of course, all knowledge has some value.

Moreover, I support the resolution because the only place I can find this House is on record in terms of the Presi-

dent's policies in Southeast Asia refers back to the date when we voted over my opposition for the resolution which the gentleman from Texas (Mr. WRIGHT) presented, which, in a sense, subscribed to all that the President was doing in Southeast Asia. That resolution was so interpreted by the minority leader (Mr. FORD) as an endorsement, a vote of confidence, in President Nixon's policies.

Now, Mr. Speaker, the record is clear in this resolution that we think we had better take a second look and send a select committee over there to take that second look. Evidently, we are less confident in the undertakings of the executive branch.

So, I look upon this resolution as a repealer of the Wright resolution and I shall, therefore, support it.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. CABELL).

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

Mr. CABELL. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, there is no man in this House that I admire more as a friend and as a legislator than I do the author of this resolution. But, I must rise in opposition to it.

Mr. Speaker, if this Congress wants to do something about the affair in Southeast Asia, then why not fall in behind our Executive leadership in fighting this war to a successful conclusion. There can be no political negotiations as long as we are dealing from weakness. Let us get the military advantage which we must have. Let us unite behind our leadership. Let us show the people of America that we are not yellow dogs and run with our tail between our legs at every sign of opposition. Let us get the military superiority and prove it and then they will come to the conference table. We can deal from strength and not from weakness and we can get this thing over.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield the remaining time on our side to the distinguished gentleman from Illinois (Mr. GRAY).

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

Mr. GRAY. Mr. Speaker, the only way to make our dreams come true is to stay awake. We have before us a resolution that is going to provide us with information so we can go home and talk to our constituents between now and November about what the Congress, the House of Representatives that is charged with passing all appropriation bills first is doing about Vietnam, about Cambodia, and about the way we are spending money for the defense of this great Nation.

Mr. Speaker, I will say to my colleagues that I am a little bit surprised that we have opposition to this resolution, much less what the consequences will be if you vote it down.

Mr. Speaker, we are the elected Representatives of the people. If we are not even willing to find out from Members of our own body as to what is really going on in Southeast Asia, how can we

be spokesmen for our people? If you heard a burglar outside your door would you call someone downtown to come and find out what the noise is or would you go see for yourself?

Let us determine for ourselves what is going on and then maybe we can speak with a little bit of authority. I have before me a copy of the Thursday June 4 issue of the southern Illinoisan newspaper with two Associated Press dispatches. One headline reads "Objectives Won, Nixon Tells United States." Then, on the same page in daring headlines "Senior Military Officers on Cambodia Say, 'It's Too Early To Tell.'"

Mr. Speaker, if the President and the top military people in the field fighting the war are in disagreement about what is going on, how can we possibly know? I hope the President is right, but I want the Congress to report, then we can make a better judgment on what to do.

Mr. Speaker, I want to commend my distinguished friend from Mississippi (Mr. MONTGOMERY) for allowing me to join with him in cosponsoring this important proposal and also to commend him for his hard work in bringing out the resolution.

Mr. MARTIN. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska (Mr. CUNNINGHAM).

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

Mr. CUNNINGHAM. Mr. Speaker, I came here with an open mind and have listened to this debate.

It appears to me that this resolution, if it passes, will accomplish nothing. They will come back with varying opinions and muddy the water. I agree with the gentleman from Texas who spoke a moment ago to the effect that I have full faith and confidence in the Committee on Foreign Affairs, in the Committee on Armed Services, and above all in the Commander in Chief. I do not think we should cloud the picture any further as it has already been clouded by the varying pronouncements of the approximately 175 Members who have already visited Southeast Asia. This proposed trip indicates lack of confidence in the two great committees of the House: Foreign Affairs and Armed Services.

I supported President Johnson and I strongly support President Nixon, our one and only Commander in Chief. I am going to vote against this resolution for those reasons: To do otherwise is to prolong the war because of the various political viewpoints which the committee members will express and can only lead the enemy to believe we have no guts to see this struggle through to a successful conclusion. The news media will really have a field day exploiting this foolish trip.

Mr. ROGERS of Florida. Mr. Speaker, I rise in support of House Resolution 976, a resolution to immediately send a select committee of 12 Members of the House of Representatives to Southeast Asia to investigate the aspects of U.S. military involvement in that area.

I am cosponsoring this resolution with my good friend and colleague, Mr. Montgomery of Mississippi, and many other Members of the House in a bipartisan ef-

fort to obtain the facts regarding past and present developments in Southeast Asia.

The use of military forces in Vietnam and now in Cambodia has been the subject of intense concern and debate across the Nation and in Congress. I am very concerned about the many conflicting reports on the factual situation in Southeast Asia, which seem to be coming from a number of different sources.

I certainly think that the people of our Nation and the Members of Congress would greatly benefit from the proposed committee's accounting of the facts surrounding our involvement in Southeast Asia, particularly in view of recent developments.

Therefore, I urge my colleagues to join with me in supporting House Resolution 976.

Mr. COHELAN. Mr. Speaker, I will vote against House Resolution 976, a bill to establish a 12-member select committee to study the recent developments in Southeast Asia.

We have been over and over this ground. The central question that we face is: when are we going to extricate ourselves from this Southeast Asian "quagmire"? I have constantly fought to have our military commitments in Southeast Asia ended. As a member of the Foreign Operations Subcommittee of the House Appropriations Committee, I have studied these issues in depth. My conclusion has been consistent. We should get out now.

The central question, Mr. Speaker, is whether we have enough information to make a reasoned decision. I feel that the correct congressional response is not further "study" but a positive assertion of congressional authority.

This is an unnecessary bill and should be defeated.

Mr. RANDALL. Mr. Speaker, I intend to oppose House Resolution 976. One portion of the resolution states that there shall be an investigation of all aspects of our involvement. This is completely incongruous with another portion of the resolution which relieves the committee after they have studied only the recent developments in Southeast Asia. It is quite obvious and apparent that two sections of the resolutions fly in the face of each other. They tend to pull the committee in opposite directions. Maybe that portion which holds the committee only to the study of recent developments is a more reasonable commission because the resolution requires not only that all facts be investigated about our military involvement but that a detailed report be prepared and submitted to the House all within 45 days following the adoption of this resolution. I submit this is impossible to accomplish.

Most of us would gladly support this resolution if it were not a fact that there have already been an overwhelming number of investigations by Members of the Congress in the past. I suppose it would take quite a bit of book work to find out exactly how many Members

of Congress have visited Vietnam since the commencement of hostilities. One Member has said facetiously that the body count of the Members of Congress who have served in Vietnam runs over 175 and is approaching the 200 mark. Yes, Vietnam has been investigated and investigated and investigated. Some valuable information has been brought back but along with this has been a lot of misinformation.

I will not support this resolution today because one committee recently appointed by the executive branch had Members from both bodies of Congress. It is my understanding that this committee worked somewhat over 3 days but less than a total of 4 days and are now on their way home. Certainly this House should weigh and consider the report of this committee before we indulge in the formation of another select committee.

Mr. Speaker, one of the paramount reasons that we should defeat this resolution today is that the House and Senate have established regularly constituted committees to do this job. It should be done with the Foreign Affairs Committee or the Armed Services Committee or the Defense Appropriations Subcommittee. What are these regular committees for if it is not to investigate our involvement in Southeast Asia?

This resolution seems to leave the implication or the innuendo that the Congress is not now possessed of the facts about our military involvement in Southeast Asia. The adoption of this resolution would be an admission that all we have done about Vietnam and all that has been approved by the standing committees and then once again approved on the floor of both bodies of Congress had been done without any knowledge or any investigation of the facts of our involvement. Of course, such an innuendo or implication is not only inaccurate, it is ridiculous.

To oppose this resolution today is not to ignore any responsibility of the Congress or to turn anything over to the executive branch. Our standing committees have worked long and diligently to get the facts.

Mr. Speaker, I fail to understand why the preamble of this resolution was stricken. I could not have supported the resolution if the first paragraph alone had been retained and the last two stricken because the first paragraph alleges that the Cambodian incursion has added a new dimension to the war. Many of us do not believe this to be the fact. The second paragraph is harmless and inoffensive. We all know that deployment of our military forces has been the subject of intense debate in the Congress. That is a truism. But why was the third paragraph stricken? The Congress needs as much accurate and detailed information as possible to fulfill its constitutional responsibilities. If this resolution is to mean anything then this paragraph of the preamble should have been retained as a guideline for the select committee. In other words, the preamble itself is somewhat like the content of the body of the resolution. Part of it is untrue, part of it is unnecessary and meaningless, and

an important part that should have been retained has been stricken out.

Now I am not suggesting that if this resolution is approved and if this committee is appointed by the Speaker that it will be weighted by those members who would prejudice before they investigate, or develop preconceived conclusions before the report was written. I am not suggesting that there would be a white-wash in any sense of the term. I do not believe that it would be fair to say this would be just another junket for about a dozen members. I do suggest that this is no way to investigate our involvement. Our fighting men are trying to do their duty. If there is any failure of policy it is not in Vietnam but right here in Washington. Our military personnel are trying hard to achieve their objective. Someone has said it would take nearly a battalion of our troops to protect this committee. That may be exaggeration, but I think the Members of Congress should keep out of the way of our men.

If we pass this resolution today, it means we will telegraph ahead that another committee had been formed and when it will arrive in Vietnam. All the window dressing will be ready upon arrival. Another committee is not needed. It will not accomplish a thing. It will cost a substantial sum of money after all the experts, consultants, technicians, clerks, and stenographic assistance called for on page 2 have been paid and then reimbursed for their travel and subsistence. While the expense will be substantial there is no assurance of a productive result or even any possible forecast of the consequences such a report might produce.

This resolution should never have been brought to the floor at this time. It should be defeated.

Mr. ANDERSON of Tennessee. Mr. Speaker, I move the previous question on the resolution.

PARLIAMENTARY INQUIRY

Mr. BINGHAM. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore (Mr. ALBERT). The gentleman will state his parliamentary inquiry.

Mr. BINGHAM. Will the Chair entertain a motion to recommit with an amendment to the resolution?

The SPEAKER pro tempore. The Chair will state to the gentleman from New York that a motion to recommit is not in order on a resolution from the Committee on Rules.

Mr. BINGHAM. I thank the Chair.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BINGHAM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 246, nays 80, not voting 103, as follows:

[Roll No. 155]
YEAS—246

Abbtitt
Adair
Albert
Anderson,
Calif.
Anderson, Ill.
Anderson,
Tenn.
Andrews, Ala.
Andrews,
N. Dak.
Annunzio
Arends
Beall, Md.
Belcher
Bell, Calif.
Bennett
Berry
Befts
Bevill
Blaggi
Blackburn
Blanton
Blatnik
Boggs
Boland
Bow
Brinkley
Brock
Brooks
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burlison, Tex.
Burlison, Mo.
Burton, Utah
Byrne, Pa.
Byrnes, Wis.
Cabell
Caffery
Camp
Casey
Cederberg
Celler
Chamberlain
Chappell
Clancy
Clark
Clausen,
Don H.
Clawson, Del.
Cleveland
Collier
Collins
Colmer
Conable
Corbett
Corman
Coughlin
Cramer
Daniels, N.J.
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denny
Dennis
Dent
Devine
Dickinson
Donohue
Dowdy
Duncan
Dwyer
Edwards, Ala.
Edwards, La.
Erlenborn
Eshleman
Evins, Tenn.
Feighan

Findley
Flowers
Flynt
Foreman
Fountain
Frelinghuysen
Frey
Friedel
Fuqua
Galifianakis
Garmatz
Gibbons
Goldwater
Gray
Griffin
Gross
Grover
Gubser
Haley
Hall
Hamilton
Hammer-
schmidt
Hanna
Hansen, Idaho
Harsha
Harvey
Hastings
Hays
Hébert
Henderson
Hogan
Hollifield
Hosmer
Howard
Hull
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Kazen
Kee
Keith
King
Kleppe
Kluczynski
Kuykendall
Kyl
Langgrebe
Langen
Latta
Lennon
Lloyd
Long, La.
Long, Md.
Lukens
McClory
McCloskey
McCure
McCulloch
McDonald,
Mich.
McFall
McKneally
Madden
Mahon
Mailliard
Marshall
Martin
Matsunaga
May
Mayne
Melcher
Michel
Minish
Minshall
Mize
Mizell
Montgomery

Morton
Myers
Natcher
Nelsen
O'Neal, Ga.
Pelly
Perkins
Pettis
Phillbin
Pickle
Pirmie
Poage
Poff
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quite
Quillen
Randall
Rarick
Reid, Ill.
Reifel
Roberts
Robison
Rodino
Roe
Rogers, Fla.
Rostenkowski
Roth
Ruppe
Sandman
Satterfield
Saylor
Scherle
Schneebeli
Schwengel
Scott
Sebellus
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Stafford
Stanton
Steiger, Ariz.
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Sullivan
Taft
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Thompson, Wis.
Udall
Waggonner
Wampler
Watts
White
Widnall
Wiggins
Williams
Wilson,
Charles H.
Winn
Wright
Wyatt
Wylie
Wyman
Young
Zablocki
Zion
Zwach

Macdonald,
Mass.
Meeds
Mikva
Mink
Monagan
Morgan
Morse
Mosher
Moss
Murphy, Ill.
Nedzi
Obey
O'Hara

O'Konski
Olsen
Patman
Patten
Pike
Podell
Rees
Riegler
Rogers, Colo.
Rooney, Pa.
Rosenthal
Roybal
Ryan
Shipley

Stokes
Tiernan
Ullman
Van Deerin
Vander Jagt
Vanik
Waldie
Whalen
Wolf
Wydler
Yates
Yatron

Mr. Conyers with Mr. Burton of California.
Mr. Scheuer with Mr. Diggs.
Mr. Powell with Mr. Kirwan.
Mr. Culver with Mr. Gettys.
Mr. Dorn with Mr. Daniel of Virginia.
Mr. Farbstain with Mr. Harrington.
Mr. Rivers with Mr. Mills.
Mr. Dawson with Mr. Symington.
Mr. Fisher with Mr. Gilbert.
Mrs. Green of Oregon with Mr. Ottinger.
Mr. Reuss with Mr. Nix.
Mrs. Hansen of Washington with Mr. Gaydos.
Mr. Edmondson with Mr. Rhodes.

NOT VOTING—103

Abernethy
Alexander
Ashbrook
Aspinall
Gray
Baring
Barrett
Bolling
Brasco
Bray
Brown, Calif.
Burton, Calif.
Bush
Carter
Chisholm
Conte
Conyers
Cowger
Crane
Culver
Daddario
Daniel, Va.
Dawson
Derwinski
Diggs
Dingell
Dorn
Downing
Dulski
Edmondson
Fallon
Farbstain
Fascell
Fish
Fisher

Ford, Gerald R.
Fulton, Tenn.
Gallagher
Gaydos
Gettys
Gialmo
Gilbert
Goodling
Green, Oreg.
Hagan
Halpern
Hanley
Hansen, Wash.
Harrington
Hungate
Jones, Tenn.
Kirwan
Kyros
Landrum
Lujan
McCarthy
McEwen
McMillan
MacGregor
Mann
Mathias
Meskill
Miller, Calif.
Mills
Mollohan
Moorhead
Murphy, N.Y.
Nichols
Nix
O'Neill, Mass.

Ottinger
Passman
Pepper
Pollock
Powell
Preyer, N.C.
Price, Ill.
Railsback
Reid, N.Y.
Reuss
Rhodes
Rivers
Rooney, N.Y.
Roudebush
Ruth
St Germain
Schadeberg
Schaeber
Stagers
Steed
Stratton
Symington
Thompson, N.J.
Tunney
Vigorito
Watkins
Watson
Welcker
Whalley
Whitehurst
Whitten
Wilson, Bob
Wold

Mr. MONAGAN changed his vote from "yea" to "nay."
Mr. BROOKS and Mr. YOUNG changed their votes from "nay" to "yea."
The result of the vote was announced as above recorded.
The doors were opened.
The SPEAKER pro tempore. The question is on the resolution.
Mr. HALL, Mr. Speaker, on that I demand the yeas and nays.
The yeas and nays were ordered.
The question was taken; and there were—yeas 223, nays 101, not voting 105, as follows:

[Roll No. 156]
YEAS—223

Abbtitt
Adair
Adams
Addabbo
Albert
Anderson,
Calif.
Anderson,
Tenn.
Andrews, Ala.
Andrews,
N. Dak.
Annunzio
Arends
Ashley
Bell, Calif.
Bennett
Bevill
Blaggi
Blester
Blackburn
Blanton
Blatnik
Boggs
Brademas
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Button
Byrne, Pa.
Caffery
Camp
Carey
Cederberg
Chamberlain
Chappell
Clancy
Clausen,
Don H.
Cleveland
Collins
Colmer
Corbett
Corman
Coughlin
Cramer
Daniels, N.J.
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denny
Dennis
Dent
Devine
Dickinson
Donohue
Dowdy
Duncan
Dwyer
Edwards, Ala.
Edwards, La.
Erlenborn
Eshleman
Evins, Tenn.
Feighan

Findley
Flowers
Foley
Foreman
Fountain
Fraser
Frelinghuysen
Frey
Friedel
Fuqua
Galifianakis
Garmatz
Gibbons
Goldwater
Gonzalez
Gray
Green, Pa.
Griffin
Grover
Gubser
Gude
Haley
Hamilton
Hammer-
schmidt
Hanna
Hansen, Idaho
Harsha
Hastings
Hathaway
Hébert
Hechler, W. Va.
Heckler, Mass.
Henderson
Hogan
Hollifield
Hosmer
Howard
Hunt
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Kazen
Kee
Keith
King
Kleppe
Kluczynski
Koch
Kuykendall
Kyl
Langgrebe
Langen
Latta
Lennon
Lloyd
Long, La.
Long, Md.
Lukens
McCloskey

McClure
McCulloch
McDade
McDonald,
Mich.
McFall
McKneally
Macdonald,
Mass.
Madden
Mahon
Mailliard
Marsh
Martin
May
Meeds
Melcher
Miller, Ohio
Minish
Mink
Mizell
Montgomery
Mosher
Myers
Natcher
Nelsen
Obey
Olsen
O'Neal, Ga.
Patten
Perkins
Pettis
Pickle
Pirmie
Poage
Podell
Poff
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quite
Rarick
Rees
Reid, Ill.
Reifel
Riegler
Roberts
Robison
Rodino
Roe
Rogers, Fla.
Rostenkowski
Roth
Roybal
Ruppe
Sandman
Satterfield
Saylor
Scott
Sebellus
Shriver
Sikes

To the previous question was ordered.
The Clerk announced the following pairs:
Mr. O'Neill of Massachusetts with Mr. Gerald R. Ford.
Mr. Barrett with Mr. Ayres.
Mr. Downing with Mr. Bray.
Mr. Dulski with Mr. Carter.
Mr. Fallon with Mr. Fish.
Mr. Gialmo with Mr. Halpern.
Mr. Staggers with Mr. Goodling.
Mr. Steed with Mr. Meskill.
Mr. Rooney of New York with Mr. Pollock.
Mr. Price of Illinois with Mr. Railsback.
Mr. Whitten with Mr. Watkins.
Mr. Thompson of New Jersey with Mr. Welcker.
Mr. Baring with Mr. Bob Wilson.
Mr. Aspinall with Mr. Cowger.
Mr. Brasco with Mr. Conte.
Mr. Landrum with Mr. Ashbrook.
Mr. Kyros with Mr. Crane.
Mr. Miller of California with Mr. Derwinski.
Mr. Murphy of New York with Mr. Bush.
Mr. Dingell with Mr. Lujan.
Mr. Fascell with Mr. McEwen.
Mr. Fulton of Tennessee with Mr. MacGregor.
Mr. Gallagher with Mr. Reid of New York.
Mr. Hagan with Mr. Ruth.
Mr. Hanley with Mr. Schadeberg.
Mr. Stratton with Mr. Watson.
Mr. St Germain with Mr. Whalley.
Mr. Pepper with Mr. Roudebush.
Mr. Nichols with Mr. Mathias.
Mr. Moorhead with Mr. Whitehurst.
Mr. Mann with Mr. Wold.
Mr. McMillan with Mr. Mollohan.
Mr. Hungate with Mr. Jones of Tennessee.
Mr. Abernethy with Mr. Preyer of North Carolina.
Mr. Alexander with Mr. Passman.
Mr. Daddario with Mr. Vigorito.
Mr. Brown of California with Mrs. Chisholm.

Nedzi	Riegle	Tunney
Obey	Robison	Ullman
O'Hara	Rodino	Van Deerin
O'Konski	Rooney, Pa.	Vanik
Olsen	Roybal	Waldie
Patman	Ryan	Whalen
Pike	Schneebell	Wolf
Podell	Stanton	Yates
Randall	Stokes	Yatron
Rees	Tiernan	

NOT VOTING—135

Abernethy	Frelinghuysen	Pepper
Alexander	Frey	Pollock
Ashbrook	Fulton, Tenn.	Powell
Aspinall	Gallagher	Freyer, N.C.
Ayres	Garmatz	Price, Ill.
Baring	Gaydos	Quie
Barrett	Gettys	Rallsback
Boggs	Gialmo	Reid, N.Y.
Boland	Gilbert	Reifel
Bolling	Goodling	Reuss
Brasco	Green, Oreg.	Rivers
Bray	Hagan	Roe
Brock	Halpern	Rooney, N.Y.
Brown, Calif.	Hanley	Rosenthal
Burton, Calif.	Hanna	Roudebush
Bush	Hansen, Wash.	Ruth
Carter	Harrington	St Germain
Celler	Hébert	Schadeberg
Chisholm	Hollifield	Scheuer
Clark	Hungate	Schwengel
Clay	Jones, Tenn.	Shipley
Conte	Kastenmeier	Shriver
Conyers	Kirwan	Staggers
Cowger	Kyros	Steed
Crane	Landrum	Stratton
Culver	Lujan	Symington
Daddario	McCarthy	Teague, Tex.
Daniel, Va.	McClary	Thompson, N.J.
Dawson	McClure	Vigozito
Delaney	McEwen	Watkins
Dent	McMillan	Watson
Derwinski	MacGregor	Weicker
Diggs	Mann	Whalley
Dingell	Mathias	Whitehurst
Dorn	Meskill	Whitten
Downing	Miller, Calif.	Wiggins
Dulski	Mills	Wilson, Bob
Edwards, Calif.	Mollohan	Wilson, Charles H.
Evins, Tenn.	Moorhead	Wold
Fallon	Murphy, N.Y.	Wyatt
Farbstein	Nelsen	Wylie
Fascell	Nichols	Young
Fish	Nix	
Fisher	O'Neal, Ga.	
Ford, Gerald R.	O'Neill, Mass.	
Ford	Ottinger	
William D.	Passman	

So the committee amendment to the preamble was agreed to.

The Clerk announced the following pairs:

Mr. O'Neill of Massachusetts with Mr. Gerald R. Ford.
 Mr. Barrett with Mr. Ayres.
 Mr. Downing with Mr. Bray.
 Mr. Dulski with Mr. Carter.
 Mr. Fallon with Mr. Fish.
 Mr. Gialmo with Mr. Halpern.
 Mr. Staggers with Mr. Goodling.
 Mr. Steed with Mr. Meskill.
 Mr. Rooney of New York with Mr. Pollock.
 Mr. Price of Illinois with Mr. Rallsback.
 Mr. Whitten with Mr. Watkins.
 Mr. Thompson of New Jersey with Mr. Weicker.
 Mr. Baring with Mr. Bob Wilson.
 Mr. Aspinall with Mr. Cowger.
 Mr. Brasco with Mr. Conte.
 Mr. Landrum with Mr. Ashbrook.
 Mr. Kyros with Mr. Crane.
 Mr. Miller of California with Mr. Derwinski.
 Mr. Murphy of New York with Mr. Bush.
 Mr. Dingell with Mr. Lujan.
 Mr. Fascell with Mr. McEwen.
 Mr. Fulton of Tennessee with Mr. MacGregor.
 Mr. Gallagher with Mr. Reid of New York.
 Mr. Hagan with Mr. Ruth.
 Mr. Hanley with Mr. Schadeberg.
 Mr. Stratton with Mr. Watson.
 Mr. St Germain with Mr. Whalley.
 Mr. Pepper with Mr. Roudebush.
 Mr. Nichols with Mr. Mathias.
 Mr. Moorhead with Mr. Whitehurst.
 Mr. Mann with Mr. Wold.

Mr. McMillan with Mr. Mollohan.
 Mr. Hungate with Mr. Jones of Tennessee.
 Mr. Abernethy with Mr. Freyer of North Carolina.

Mr. Alexander with Mr. Passman.
 Mr. Daddario with Mr. Vigorito.
 Mr. Brown of California with Mrs. Chisholm.

Mr. Conyers with Mr. Burton of California.
 Mr. Scheuer with Mr. Diggs.
 Mr. Powell with Mr. Kirwan.
 Mr. Culver with Mr. Getty.
 Mr. Dorn with Mr. Daniel of Virginia.
 Mr. Farbstein with Mr. Harrington.
 Mr. Rivers with Mr. Mills.
 Mr. Dawson with Mr. Symington.
 Mr. Fisher with Mr. Gilbert.
 Mrs. Green of Oregon with Mr. Ottinger.
 Mr. Reuss with Mr. Nix.
 Mrs. Hansen of Washington with Mr. Gaydos.

Mr. Boggs with Mr. Boland.
 Mr. Celler with Mr. Nelsen.
 Mr. Delaney with Mr. McClure.
 Mr. Dent with Mr. Schiver.
 Mr. Edwards of California with Mr. Clay.
 Mr. Evins of Tennessee with Mr. Stanton.
 Mr. Garmatz with Mr. Frelinghuysen.
 Mr. Hanna with Mr. Frey.
 Mr. Hébert with Mr. McClary.
 Mr. William D. Ford with Mr. Quie.
 Mr. Hollifield with Mr. Reifel.
 Mr. Roe with Mr. Schwengel.
 Mr. Shipley with Mr. Wyatt.
 Mr. Young with Mr. Wiggins.
 Mr. Teague of Texas with Mr. Brock.
 Mr. O'Neal of Georgia with Mr. Wylie.
 Mr. Clark with Mr. Kastenmeier.
 Mr. McCarthy with Mr. Rosenthal.

Mr. ASHLEY changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

TITLE AMENDMENT

The SPEAKER pro tempore (Mr. ALBERT). Without objection, the amendment to the title is agreed to.

Mr. VANIK. Mr. Speaker, reserving the right to object—and I shall not object—to the amendment to the title, I would simply like to point out that today we have had many rollcalls on matters of very little importance under the same rules that deny and prevent rollcalls on major issues such as the ABM, the SST, water pollution, the nuclear carrier and a great many other vital issues. I think this points out one of the important needs for revising and improving the rules of this House.

Mr. Speaker, I have no objection to the amendment to the title.

The title was amended so as to read: "To authorize a select committee of the House to study firsthand the recent developments in Southeast Asia and then report its findings to the House of Representatives within 45 days of its adoption."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore (Mr. ALBERT). Is there objection to the request of the gentleman from Hawaii?

There was no objection.

CORRECTION OF VOTE

Mr. MATSUNAGA. Mr. Speaker, on rollcall No. 156 I am recorded as not voting. I was present and voted "yea." I ask unanimous consent that the Record be corrected accordingly.

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

There was no objection.

AUBURN FINDS ROAD TO PEACEFUL DISSENT

(Mr. NICHOLS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. NICHOLS. Mr. Speaker, colleges and universities throughout the country have been plagued with violence and disruptions during the past few weeks. Almost every institute of higher learning has had some type of disturbance, but the great majority of our campuses have remained peaceful.

Auburn University is an excellent example of school officials handling a touchy situation in such a way as to avoid violence and to promote understanding between the students and the administration.

Auburn President Dr. Harry Philpott spent 6 hours on a park bench outside his office talking with individuals and groups of students. This action countered a proposed day-long strike called for by a liberal student group to protest U.S. involvement in Cambodia.

The following article from the May 24 edition of the Birmingham News outlines the peaceful dissent at Auburn University recently:

[From the Birmingham News, May 24, 1970]

NO VIOLENCE: AUBURN FINDS ROAD TO PEACEFUL DISSENT
 (By Charles Nix)

The longest day had ended very late on the Auburn campus. It had ended without a single reported violent incident. Students, faculty and administrators—many bone-weary, some exhausted—were quietly jubilant that Auburn had found the way to air disagreement and dissent within a framework of mutual respect and orderliness.

The substance of violence had been on the campus Thursday, but what seemed like an overwhelming spirit of restraint prevailed.

The Human Rights Forum had called for a strike to protest U.S. involvement in Cambodia, the war in Vietnam and the deaths of students, black and white, across the nation.

The forum had brought in speakers. Some of the speakers urged the students to "recognize your enemies," "get in step" with other university students and to "push for what you believe."

Then there was a change that put a night meeting into the day's schedule, and calls for a candlelight march on the university president's home.

Tension built. People got tired.

The conditions were never better at Auburn University than Thursday for student violence to mar the unblemished record that has set the college apart from many across the nation.

But when it was over, student leaders and administrators could call it a day of "intelligent, rational discussion of the issues."

"I was proud of Auburn today," said Dr. Harry M. Philpott, president of the university, at the most tense moment of the day.

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JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

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1. (Confidential - JMM) Talked to Chairman David Henderson, Subcommittee on Manpower and Civil Service of the House Post Office and Civil Service Committee, regarding S, 782 (Ervin bill). Henderson said that:

a. He plans to take up the bill in executive session and report it without hearings in the fairly near future--perhaps this month.

b. He personally will support a complete exemption for the Agency but cannot predict the position of other members of the Subcommittee or the full Committee.

c. He cannot delay action on the bill indefinitely and would like to hear from the Executive agencies concerned within the next two weeks.

d. He recommends that agencies seeking full exemption make the strongest possible case in their formal response to the letters he has sent requesting views.

e. Meanwhile he thinks we should explain our problem privately to members of the Subcommittee and try to get their support.

2. (Secret - JMM) Briefed Russ Blandford, Chief Counsel, House Armed Services Committee, on Soviet Y-class submarine deployment, possible Moscow visit by Nasir, ChiCom aircraft production, Soyuz-9 mission, Soviet MRBM deployment, and the situation in Cambodia.

3. (Secret - JMM) Briefed Ed Braswell, Chief of Staff, Senate Armed Services Committee, on Soviet Y-class submarine deployment, possible Moscow visit by Nasir, ChiCom aircraft production, Soyuz-9 mission, Soviet MRBM deployment, and the situation in Cambodia.

Braswell said he would like for Senator Stennis' benefit updated figures on the number of North Vietnamese and South Vietnamese troops now operating in Cambodia, and the effect of the fighting on the Cambodian economy.

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4. (Secret - JMM) Briefed Bill Woodruff, Counsel, Senate Appropriations Committee, on the Cambodian situation, ChiCom aircraft production, Middle East situation, Soviet ICBM deployment, Soviet submarine deployment, and the possible Nasir trip to Moscow.

5. (Secret - JMM) Briefed Ralph Preston, Staff Assistant, House Appropriations Committee, on the Cambodian situation, ChiCom aircraft production, Middle East situation, Soviet ICBM deployment, Soviet submarine deployment, and the possible visit of Nasir to Moscow.

6. (Secret - GLC) Talked with Mary Rita Robbins, on the staff of the Senate Aeronautical and Space Sciences Committee, about our destroying extra copies of some of our old testimony before the combined Space and Preparedness Committees. With her agreement we will do this, checking with her in each instance to make certain that her records and ours are the same.

We are retaining copy number 1 of the Director's testimony of 29 January 1960 and destroying copies 2 through 6.

We are also retaining copy number 1 of the original transcript of the Director's testimony of 24 February 1960 (which had been incorrectly bound by the printers) and copy number 1 of the transcript which was corrected. We are destroying copies 2, 3, 8, and 9.

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25X1A
7. (Confidential - GLC) [REDACTED] CRS, called concerning a request she had received from Mr. Richard Long, State Department, for [REDACTED] biographies on two [REDACTED] officials. These are for a Member of Congress who will be going to [REDACTED] with a congressional delegation. I suggested that [REDACTED] provide the biographies to the State Department for transmittal to the congressman without attribution to the Agency.

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