

VC Would Liquidate 3 Million If It Won, U.S. Expert Contends

By Robert G. Kaiser
Washington Post Foreign Service

SAIGON, May 14—One of the U.S. government's leading experts on the Vietcong has written a paper predicting that "if the Communists win decisively in South Vietnam, all political opposition, actual or potential, would be systematically eliminated."

The author of the paper is

Douglas Pike, who has written two books on the Vietnamese Communists and is now a United States Information Service officer in Tokyo. He wrote "The Viet Cong Strategy of Terror," a 125-page monograph earlier this year. The U.S. mission here plans to release it soon.

Pike's work seems to be a rejoinder to those who have

mocked suggestions that the Communists would wipe out thousands of their opponents if they took over South Vietnam. Pike says that if the Communists win the war here decisively ("and the key word is decisively," he writes), the result will be "a night of the long knives" to wipe out all conceivable dissidents—perhaps 3 million persons.

Pike contends the massacre would go on in secret, after all foreigners had been expelled from Vietnam. "The world would call it peace," Pike writes.

He cites a list of 15 categories of citizens who would be murdered, saying such a list of categories is often found in captured documents. Pike notes a statement by Col. Tran Van Duc, one of the highest-ranking Communists ever to defect to the Saigon regime, that "there are 3 million South Vietnamese on the blood debt list."

Pike's predictions are the most dramatic aspect of his paper. Most of it is devoted to an analysis of the Vietcong's present and past uses of terror. A major section analyzes the 1968 massacres at Hue.

"It would not be worthwhile nor is it the purpose of this monograph to produce a word picture of Vietnamese Communists as fiendish fanatics with blood dripping from their hands," Pike writes. Rather, he says, he wants to describe how the Vietcong use and justify terror as a crucial part of their war strategy.

Current Vietcong doctrine, Pike contends, calls for terror for three purposes: to diminish the allies' forces, to maintain or boost Communist morale, and to scare and disorient the populace. He says the enemy seems to be moving more and more toward a terrorist strategy as part of a new kind of protracted war. (Official government terrorist statistics show a sharp increase in kidnappings, assassinations and other terrorism in recent months.)

In central Vietnam, Pike writes, Vietcong units are given terrorist quotas to fulfill. As an example, he cites intelligence information that special Vietcong squads in parts of two provinces were told to "annihilate" 277 persons during the first half of 1969.

In the most detailed analysis of the killings at Hue yet published, Pike writes that "despite contrary appearances, virtually no Communist killing was due to rage, frustration or panic during the Communist withdrawal" from Hue, which the Vietcong held for 24 days in February 1968.

"Such explanations are often heard," Pike continues, "but they fail to hold up under scrutiny. Quite the con-

trary, to trace back any single killing is to discover that almost without exception it was the result of a decision rational and justifiable in the Communist mind."

According to Pike's analysis of the Hue massacres, the Communists changed their minds twice after seizing the city on Jan. 31. At first, Pike writes — he claims, captured documents show this—the Vietcong expected to hold Hue for just seven days.

During that first phase, Pike says, the Vietcong purposefully executed "key individuals whose elimination would greatly weaken the government's administrative apparatus."

After they held on more than seven days, Pike's theory continues, the Communists decided they would be able to stay in Hue indefinitely. Prisoners, ralliers and intercepted messages at the time confirm this, according to Pike.

In this euphoric mood, he writes, the Communists set out to reconstruct Hue society, eliminating not just specific individuals, but whole categories of citizens whose existence would hinder creation of a new revolutionary society. Perhaps 2,000 of the estimated 5,800 persons killed at Hue were slain during this second phase, Pike suggests.

Eventually, Pike continues, the battle turned against the Communists in Hue and they realized they would have to abandon the city. This realization led to phase three, Pike writes: "elimination of witnesses." The entire underground Vietcong structure in Hue had probably revealed itself by this time, and now had to protect itself by eliminating many who could later turn them in to government authorities, Pike theorizes.

For this reason, citizens taken from their homes merely for political indoctrination had to be killed when the Communists decided to flee Hue, Pike suggests.

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derstanding, and consideration that has been shown.

I point out that while in 1968 the crime rate rose by 16 percent, in 1969 it rose by only 11 percent; so percentage-wise there has been a diminution, but overall there has been an increase.

I think the times call for action, and I hope Congress will face up to its responsibilities this year, and do it soon.

ECONOMIC ASPECTS OF THE WAR IN VIETNAM

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the testimony by Louis B. Lundborg, chairman of the board of the Bank of America, before the Senate Committee on Foreign Relations on April 15, 1970, be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. MANSFIELD. I make this request because Mr. Lundborg happens to be a Montanan. He is chairman of the board of the largest bank in the country, and his testimony, I think, is worthy of the consideration of all Members of this body.

I also ask unanimous consent that an article by Hobart Rowen, entitled "Business Can't Ignore Protests," published in the Washington Post of Sunday, April 12, 1970, be printed in the RECORD, because it is related to the remarks made by Mr. Lundborg.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

EXHIBIT 1

TESTIMONY BY LOUIS B. LUNDBORG

My name is Louis B. Lundborg. I am Chairman of the Board of BankAmerica Corporation and of the Bank of America N. T. & S. A. I am pleased to respond to your request that I testify here today.

My testimony this morning will be on some of the economic aspects of the war in Vietnam. In preparing this testimony I have had the benefit of the best thinking of the staff of the bank's Economics Department, as well as that of many other officers of our bank on the economic impact of the war.

In this testimony I will confine my remarks to the economic impact of the war. While I have strongly held personal feelings on other aspects of the war, I do not feel it is appropriate or proper to express these views as Chairman of the Board of Bank of America.

The thrust of my testimony will be that the war in Vietnam distorts the American economy. The war is a major contributor to inflation—our most crucial domestic economic problem. It draws off resources that could be put to work towards solving imperative problems facing this nation at home. And despite the protestations of the new left to the contrary, the fact is that an end to the war would be good, not bad, for American business.

There is, I think a pernicious, but widely-held belief that war generally has been an agent for economic growth, and therefore good for business. My plan this morning is to spend a few minutes discussing that belief and then to move on to the specifics of Vietnam where it is possible to speak, not only in general terms, but to back up our conclusions with specific economic statistics and indicators.

First, therefore, let's look at the general proposition that war has been an engine for

rapid economic growth. While it is difficult, if not impossible, to prove conclusively that on balance war has not been an agent for rapid economic growth, there are a number of carefully reasoned investigations into this subject supporting the position that peace is far better for economic development. Although these careful analyses tend to reject the assumption that war is a boon to the economy, the public is generally unaware of this and continues to believe that war contributes positively to economic development. It is time to set this record straight. Mr. John U. Nef's book, *War and Human Progress*, systematically examines the interrelations of war and economic growth from 1494 down to 1950. His analysis indicates that the industrial revolutions of both the Elizabethan and Napoleonic periods were developed not in warring Europe, but in peaceful England; that the invention of gun powder and of many other weapons of war was a by-product, not of military need but of peaceful industry, and that, certainly, pure and possibly even applied science has flourished most in peace and least in war.

Dr. John J. Clark, Dean of the College of Business Administration at St. John's University in New York, in his book, *The New Economics of National Defense*, reviews the impact of war on economic development.

In summary, he states, "The preponderance of evidence supports the judgment that war, on balance, does not correlate positively with economic progress. Settlement by arms not only causes a great net waste of resources; it also retards industrial development and the division of labor."

Other authorities have shown (1) that rising expenditures for research and development may actually be reducing the rate of economic growth in the United States, and (2) that the process of transferring scientific and technological advances in space and military R and D is becoming increasingly difficult. To the extent that it can be shown that war in general is not good for economic progress, then it should be equally obvious that war is not good for business.

I could go on citing other expert testimony that war in general is not an engine of economic progress—but let me move on to the real issue—the war in Vietnam.

As you probably know, Mr. A. W. Clausen, the President of the Bank of America, specifically rejected the charge that we as an institution support and profit from the war in Vietnam. He further stated, "this bank has consistently pointed out that an end to the war in Vietnam would be good, not bad, for American business." I would like to elaborate on this point.

There have been reckless and often deliberately malicious charges that the U.S. business community has supported the Vietnam war in an effort to reap huge profits. Let's look at the record. In a very narrow sense, it is certainly true that individual firms which supply material and services to the military have made profits. In our market economy, the federal government purchases most of the goods and services it requires from private firms, and those firms must be profitable in order to survive. This is true whether the firm is contracted to build a highway, produce a postal delivery truck, construct a school, improve a slum or produce a military aircraft. But as Mr. Hudson B. Drake pointed out in the January-February 1970 *Harvard Business Review*, the Government has established elaborate procedures to assure that profits on government contracts are not excessive, and in general these procedures have been effective.

I recognize that it is statistically impossible with the data available to calculate what portion of various firms' profits are generated by demands for goods and services needed to prosecute the Vietnam War. In an effort to get some rough approximation of the profitability of corporations doing sub-

stantial business with the Government, I did some checking on the corporations receiving the largest amounts of funds from Government contracts. Actually, I took the list from a publication of a "peace group" who proclaimed these firms to be war profiteers. The top ten firms for which we had data had a pattern of profits after taxes per dollar of sales quite similar to the national average. This means that the firms did better in the 1962-1965 period than in the post-escalation years. It is also interesting to note that except for 1962 the average profits after taxes per dollar of sales for the ten firms was below the comparable national average for all manufacturing industries or durable goods industries. When I checked the twenty-five largest firms their profit after taxes per dollar of sales figure was also below the national average.

I realize, as I said before, that these figures are inadequate to prove any case conclusively. They do, however, cast serious doubt on the extravagant claims we have heard about war profiteering.

We do have more than adequate data to demonstrate that the escalation of the war in Vietnam has seriously distorted the American economy, has inflamed inflationary pressures, has drained resources that are desperately needed to overcome serious domestic problems confronting our country, and has dampened the rate of growth in profits on both a *before* and *after* tax basis. In the middle of 1964 when the Vietnam escalation began, the economy was in quite good shape. We had at that time an uninterrupted economic advance of 52 months—a peacetime record—unemployment averaged 4½ percent, the consumer price index had increased only 1.2 percent during the first 6 months of 1965, and the average operating rate of industrial capacity was at 90 percent. There had been considerable success in maintaining Federal expenditures for goods and services below 11 percent of GNP from 1960 through mid-1965. In fact, the Government had even been able to change the composition of its spending by deliberately shifting emphasis from defense to non-defense spending.

The expenditures related to the Vietnam war, added to the near full employment economy that existed in mid-1965, generated severe inflationary pressures. Consumer prices began increasing rapidly as the federal deficit grew. While there is room for a wide range of opinion covering proper tax policies during this period, especially over the timing and magnitude of tax increases, and the proper role of monetary policy, the basic cause of the inflationary forces was a sharp increase in federal spending associated with the escalation of the conflict in Vietnam.

The inflation, the growth in inflationary psychology, and the very stringent anti-inflationary monetary policies have combined to produce serious distortions in the United States financial markets and resulting distortion in the economy. These distortions include the sharp drop in residential construction and the sharp growth in investment spending.

The facts clearly show that the Vietnam war has not been good for business profits. During the four years prior to the escalation of the conflict in Vietnam, corporate profits after taxes rose 71.0 percent. From 1966 through 1969 corporate profits after taxes rose only 9.2 percent. To avoid any thought that the recent tax increase may have fudged the figures, I also have similar corporate profit figures on a before tax and inventory adjustment basis. These figures show corporate profits rose 51.3 percent from 1962 through 1965 but the gains in profits were dampened to a 16.6 percent increase during the post-escalation 1966-1969 period. It should be clear from these figures that what is good for the economy is good for business.

Most of the concern about the upward pressures on prices and costs originating in expenditures associated with the Vietnam war arise from recognition of the damaging effects of inflation on the domestic economy. This should not lead us to neglect the important impact on our position in international markets and the balance of payments. This is not to lay the blame for our balance of payments problems on the recent period of inflation or on the Vietnam war. Inflation and the war associated expenditures, however, have made the problem more intractable and solutions more difficult. These difficulties with our balance of payments have postponed indefinitely any relaxation of the restraints and controls under which international business has been forced to operate for the past several years in particular.

It is important, therefore, to comment briefly on what has happened to the U.S. balance of payments in the past few years, specifically with reference to the impact of the Vietnam war. Perhaps the first point that should be made is that the official measures of the balance of payments deficit have been misleading. The view, for example, that the balance of payments in 1968 was satisfactory because there was a surplus of \$163 million and that the balance of payments in 1969 was very unsatisfactory because the deficit exceeded \$7 billion is unacceptable. In fact, the greatest deterioration in the payments position in recent years occurred in 1968. The difference between the two years may be accounted for largely by massive flows of foreign funds in opposite directions which had very little to do with the basic balance of payments position.

The best measure of what happened to the long run position is the balance on current account, that is goods and services plus private remittances and payments of U.S. Government pensions. This balance declined from a surplus of \$7.8 billion in 1964 to about \$4 billion in 1967 and \$1.4 billion in 1968 and less than \$1 billion in 1969.

A good part of the progressive deterioration in this position over the years since 1964, the year before the major acceleration of the Vietnam war, may be accounted for by the large increase in foreign exchange outflows associated with military expenditures. These rose from less than \$3 billion in 1964 to nearly \$5 billion in 1969. This, however, is not the only measure of the impact of the war and the subsequent inflation on the balance of payments. The more important impact and the one which is likely to have the most long lasting effects is on our competitive position in international and domestic markets, reflected in the rapid rise in the rate of importing of goods and services. In 1964 merchandise exports exceeded merchandise imports by nearly \$7 billion. By 1968 this excess of exports over imports had declined to less than half a billion dollars. With moderation in the rate of inflation and inflation induced expenditures our trade balance may be expected to improve this year and in subsequent years.

It is too early to tell, however, what permanent damage to our international competitive position the recent period of inflation has induced. It generally takes several years, perhaps four or five, before the full effects of excessive increases in price and costs show up in the competitive position and the effects are not confined to world markets where our products compete with that of other nations, but also in the United States where foreign products compete directly with U.S. products.

So much for balance of payments considerations. Let us return to the domestic scene.

I do not think there is any doubt that the resources used towards the Vietnam war effort could have been put to work towards solving imperative problems facing this nation at home. In the five-year period prior to the Vietnam escalation, defense spending

in the United States averaged \$50 billion per year. If we assume that this level would have been maintained over the most recent five-year period in the absence of escalation, the increase in actual spending totaled \$118 billion. During the past four years, total spending for residential construction in the United States totaled only \$112 billion.

When we survey the very real needs in our economy in the areas of housing, urban transit, environmental pollution, etc., it is clearly evident that we do not need to create war-related demand for resources in order to maintain full employment. Our problem now is one of establishing meaningful priorities to meet the quality of life demands of our citizenry. We obviously cannot do everything at once; we need to start strategic planning and action now if we hope to resolve these demands.

There is another point that at first blush might not appear to be an economic issue. But it is in real fact a very basic one: The war has divided, confused and bewildered Americans. Some Americans are strongly in favor of the continued prosecution of the war. Others are strongly opposed. But for many, the war and the issues surrounding the war are a source of confusion and bewilderment. As a result of this confusion and bewilderment, many people are losing trust in the institutions, public and private, through which we govern ourselves and run our economy. Such loss of trust is destructive of the cohesion necessary for an economy's ability to function at maximum effectiveness. To the degree banks, industrial firms, corporations, state and local governments, Federal Government agencies and universities are under attack or suspicion for their alleged part in the war in Vietnam, they lose some of their effectiveness as institutions that can provide for the common good. In the case of Vietnam it is my belief that the sum total of such loss of effectiveness is very great indeed and, while unmeasurable by any known economic indicator, this loss of effectiveness produces a very real drag on the economy.

Gentlemen, I deeply regret that the frustrations and misunderstandings arising from this conflict make it necessary to testify that overall war is not a stimulator of economic development nor is the war in Vietnam good for U.S. business. I find it repugnant, even if necessary to have to add that I would not support our role in the war in Vietnam even if it could somehow be made profitable for American firms.

The thought that war would be initiated or sustained for a single day because it might stimulate the economy should be abhorrent to an decent human being. And yet there are those who say that American business is helping to do just that.

We do know that aggressive war has been waged, all through history, to gain territory. Certainly that was war for economic gain.

But even that kind of war, that purpose for war, has been so outmoded by the experience of this century that I would like to be able to say to potential aggressors all over the world, "If you want to profit, if you want to own the world, don't dissipate your energies in wasteful warfare—follow the example of Japan and Germany since World War II and be economically aggressive."

War is, as we would say in business, a low yield operation.

I think from all this it is obvious that Vietnam is a negative influence on our economy. Let me conclude by restating my initial premise. The war in Vietnam distorts the American economy. It is a major contributor to inflation—our most crucial domestic economic problem. It draws off resources that could be put to work towards solving imperative problems facing this nation at home. And despite the protestations of the new left to the contrary, the fact is that an end to the war would be good, not bad, for American business.

EXHIBIT 2

[From the Washington Post, Apr. 12, 1970]

BUSINESS CAN'T IGNORE PROTESTS

(By Hobart Bowen)

"Because the war (in Vietnam) distorts the economy and contributes substantially toward the inflation . . . an end to the war in Vietnam would be good, not bad, for American business."

This statement by Louis B. Lundborg, head of the nation's biggest bank, the Bank of America, articulates a theme that will be heard increasingly at annual meetings of major U.S. corporations this year.

It will be pushed by an activist minority who label themselves "Business Executives Move for Vietnam Peace." Coupled, at the same time, with an assault by consumer groups and students pushing for everything from pollution control to solution of ghetto problems, the growing antiwar sentiment will make donnybrooks out of some corporate get-togethers.

Business disaffection with the war has been growing since President Johnson's massive escalation of the fighting produced no victory on Vietnamese battlefields but inflation at home.

Beginning some time in early 1968, the corporate power structure that had been dazzled by LBJ in 1964 began to lose confidence in him, and a new coolness in the business community probably played a subtle role in the President's decision not to be a candidate in 1968.

The prototype of the U.S. businessman, especially as seen by student rebels, is that of the greedy imperialist who feeds on war and arms production. That there is a munitions industry in this country that benefits from war cannot be denied.

But it should also be clear that the biggest profits, for the overwhelming number of businessmen as well as consumers, lie in a long stretch of peaceful years when a highly developed capitalistic society, attuned to social needs, can reach peak, meaningful production and distribution of wealth.

Lundborg's comment was in answer to the Business Executives' query for a statement on Bank of America's involvement in Vietnam. Lundborg replied that the bank had to leave to Washington officials the responsibility for extricating the United States from the war.

But then he emphasized the economic impact theme, one that will be taken up in a broad-scaled study to be launched soon by Sen. J. William Fulbright (D-Ark.). Fulbright's Foreign Relations Committee will also probe the impact of the war on the structure of American society.

"We feel it is completely proper and within our sphere of competence," Lundborg wrote A. R. Appleby of the antiwar business group, "to point out the economic consequences of the war. We have been doing this for at least three years.

"The war distorts the American economy; it is a major contributor to inflation; it draws off resources that could be put to work toward solving imperative problems facing this nation at home."

Is that radical or leftist thinking? If so, it makes a revolutionary out of none other than former chairman of the Federal Reserve Board, William McC. Martin Jr., who holds precisely the same view.

The Business Executives Move for Vietnam Peace carries no name with "establishment" clout. It is chaired by Henry E. Niles, chairman of the board of the Baltimore Life Insurance Co. Among its military sponsors is war critic Gen. David Shoup, retired Marine Corps Commandant. Roger Hilsman, former State Department official and Edwin O. Reischauer, former U.S. ambassador to Japan, are among the diplomatic sponsors.

But what the group lacks in big names it makes up in drive and energy, and protests

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in the role of stockholders at annual meetings will bring it more attention than ever before. With consumer groups employing the same tactic, many a corporate management will find its patience and good sense tested.

Harold Willens, a small Los Angeles businessman who has devoted almost full time the past few years to the B.E.M. group, says that "the iron curtain that used to separate the economy from society has melted. The question will no longer be how the company profits and what its dividends were, but also how it did in sustaining life."

The Securities and Exchange Commission gave this kind of corporate scrutiny a big boost forward when it instructed General Motors to include two Ralph Nader-sponsored proposals in its proxy statement for the May 2 annual meeting.

There will be other confrontations before the GM test. The Cleveland meeting of American Telephone and Telegraph Co. on April 15 will be the target of a Student Mobilization Committee antiwar protest.

But the use of proxies to contest company policies will get a better workout, apparently, at Minneapolis-Honeywell in Minneapolis and Gulf Oil in Pittsburgh on April 28; and Commonwealth Edison in Chicago on April 27.

The Nader team proposals for GM call for election of three public representatives on the board of directors, plus establishment of a shareholder committee "for corporate responsibility." This implies that there should be other motives than just profit in a company of GM's giant size.

Response to the SEC determination has been dramatic. New York Mayor John Lindsay has told the city's pension funds to vote their GM shares in favor of the proposals; the University of Pennsylvania has announced it will vote all its shares pro-consumer; and a campaign is under way to get other universities that have substantial ownership of GM shares to do the same.

It would seem hardly likely that the GM management, which opposes the proposals, can be beaten on these issues. But General Motors—as well as other major enterprises—clearly have a new force to reckon with. These are not pesky gadflies engaged in a career of petty harassment of management.

These are serious people who want to come away with something better than a headline and a box lunch. As such protests grow in strength, the corporate hierarchy will have to make accommodations. So long as the arguments are made peacefully and rationally, they represent a healthy development in the power of freely expressed public opinion—which is, after all, a source of strength and security for this nation.

If Big Business is really sophisticated, it will not turn a deaf ear to its stockholder-protectors. If it does, it will be a misreading of the shifting mood in the country, making things easier for the dialecticians of the extreme left.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Geisler, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

WAIVER OF THE CALL OF THE CALENDAR UNDER RULE VIII

Mr. BAKER. Mr. President, at the request of the distinguished majority leader, I ask unanimous consent that, at the conclusion of my remarks and at the conclusion of the remarks by the distinguished junior Senator from Virginia (Mr. SPONG) according to a previous order, the Senate waives the call of the calendar of unobjected-to bills under Rule VIII.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that statements during the transaction of routine morning business be limited to 3 minutes.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee is recognized.

DIRECT ELECTION OF THE PRESIDENT

Mr. BAKER. Mr. President, I am a Republican from a predominantly rural and relatively small State. Among the contentions being advanced today in opposition to the direct election by the people of their President are the arguments that direct election would be politically disadvantageous to the Republican Party and detrimental to the interests of small and rural States.

I do not believe all of these points to be valid. To the extent that they are true, I must reject them as, at best, secondary to the more important considerations that are involved—specifically, that in this country each man's vote for the President should count for as much as that of the next and that the country should no longer run the risk of a popular vote loser being elected to the Presidency.

I am a cosponsor of the proposed constitutional amendment introduced by the distinguished junior Senator from Indiana (Mr. BAYH), and on October 14 I had the opportunity to testify before the Judiciary Committee's Constitutional Amendments Subcommittee on this question. Several points that I made at that time were also made on April 21 in an editorial that appeared in the Washington Post. I ask unanimous consent that the text of this editorial be printed in full at this point in the RECORD.

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

LET THE PEOPLE CHOOSE THE PRESIDENT

The Senate Judiciary Committee is addressing itself this week to the most critical defect in our constitutional system of government. It must vote up or down a new electoral system that has already won approval by 339 to 70 in the House and has the support—if the polls are accurate—of

about 80 per cent of the people. Behind this powerful demand for abolition of the electoral college are well-founded fears that a fiasco resulting from the uncertainties of the present system could be disastrous.

In ordinary circumstances approval of a constitutional amendment with so much steam behind it could almost be taken for granted. But Chairman Eastland of the Judiciary Committee is not only dragging his feet; he is also throwing in the way of the amendment every obstacle he can get his hands on. All the strength that its sponsors can command will be needed to dislodge the amendment and send it to the floor with the momentum it needs for a third-thirds vote.

We think the committee and the Senate should be very clear about what is at stake. The lame and discredited electoral college system for choice of the President is no longer adequate to the needs of a great democracy. The Senate ought to remember how frightened the country was in November, 1968, by the possibility that George Wallace would deny the winning candidate an electoral-vote majority and then bargain for terms on which Richard Nixon or Hubert Humphrey could become President. That misfortune was narrowly avoided, and only our most reckless citizens would care to run the risk again.

Even most of the critics of the direct-election amendment want protection against throwing the Presidency on the bargain counter. But some of them are willing to tolerate other critical weaknesses in the present system in order to avoid too sharp a break with the past. Professor Alexander M. Bickel of Yale Law School, for example, sought to minimize the disadvantages of a modified electoral-vote system favored by himself and Senator Ervin. The possibility of electing the popular vote loser under that arrangement, he said in his testimony the other day, would involve only a "sensible risk." It is a risk that the American people are loathe to take. They cannot be unmindful of the fact that we have had second-choice Presidents three times: in 1824, 1876 and 1888. If this should happen again in these days of high sensitivity to the popular will and of unfathomable power in the hands of the President, the result could be perilous to our democratic system.

The time has come, moreover, for equalization of the voting power of all the people. In 1787, when the major problem was one of holding the states together there was reason to give the people in the small states extra standing in the electoral college, with one elector for each of their two senators as well as one for each representative. But that reason disappeared at least a century and a half ago. Today there is no sense in multiplying the vote power of citizens living in small states or of intensifying the power of the big-state voters under the unit rule. The logical and democratic trend of the day is toward one-man-one-vote, and that can be achieved only by direct voting for the candidates themselves.

Professor Bickel and a few others have spread a great deal of gloom about the encouragement of splinter parties if a direct-elections amendment is approved. But William T. Gossett, chairman of the American Bar Association's Special Committee on Electoral College Reform, has made an effective reply. The strongest cement which holds our two-party system together, he said in effect, is the election of legislators and executives by plurality votes from single member districts. The effect of the direct-election amendment would be to put presidential elections on the same basis.

In one respect, certainly, the two-party system would be greatly strengthened. Direct election of the President would mean a contest in every state. Minority parties in the one-party states would experience a sudden

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burgeoning because the votes would go to the candidates as cast instead of having the minority always smothered by the unit rule giving all of each state's electoral votes to the dominant party. The result should be genuine competition between the major parties in every state.

The Judiciary Committee has an obligation to bring out the best amendment it can design. If it should devise a better means of determining the winner than the run-off provision, which would be used if no candidate had at least 40 percent of the vote, the chance for ultimate approval of the amendment might be enhanced. But the committee should not indulge in the illusion that it can satisfy the current demand for reform by the adoption of a shoddy substitute that would leave major defects in the present system virtually untouched.

There is a tide in the fate of constitutional amendments, if a paraphrase of Shakespeare will be permitted, that ought to be taken at the flood no less than tides in the affairs of men. The time for a major electoral reform has come. A little minority on the Judiciary Committee should not be permitted to stand in the way or to strip this essential reform of the popular appeal which can lead to its enactment.

Mr. BAKER. Mr. President, on April 10, Mr. Lawrence E. Walsh, chairman of the American Bar Association Committee on the Federal Judiciary, addressed the Vanderbilt University Law Day ceremony on the role of the organized bar in the selection of Justices of the Supreme Court.

As we all know, the role of the ABA in this area has been a topic of considerable discussion in recent days. Mr. Walsh's very excellent statement sets forth the procedure followed by the committee on both lower court and Supreme Court nominations. He recites in some detail the activities of the committee on the nomination of Judge Carswell. Finally, he discusses various possibilities for reform of existing procedures.

Since this is a topic of much importance, I ask unanimous consent that the text of Mr. Walsh's remarks be printed in full at this point in the RECORD.

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

THE ROLE OF THE ORGANIZED BAR IN THE SELECTION OF JUSTICES OF THE SUPREME COURT

It has been over fifty years since a Supreme Court appointment brought forth as much emotion and concern as the recent nomination of Judge Carswell.

Like it or not, the American Bar Association's Committee on the Federal Judiciary, as one of the agencies of the profession which has a recognized role in the process of selection of Supreme Court Justices, has necessarily been involved.

The Committee is expected to report to the Senate and, if given an opportunity, to the president regarding the professional qualifications of potential nominees. It attempts to avoid political and ideological controversies and to limit its evaluation to the nominee's professional qualifications—his integrity, his temperament, and his professional competence. It has been criticized by opponents of the last two Supreme Court nominees for not applying higher standards to professional qualification. In fact, its standards have not changed from those applied in the past. The important question is, however, has change in the public and political view of the Supreme Court offered an opportunity to improve these standards—has the Committee failed to take advantage of

this opportunity; and what steps should the Committee take in order to do so.

For several months the Committee has been considering changes in its procedures. Some were adopted in connection with the report on Judge Carswell; others, more important, are still under consideration. I discuss them with no dogmatic view that these changes are the best possible. Rather, I hope that by extensive discussion our Committee can elicit ideas and support which will enable the American Bar Association and the legal profession to be as effective as possible in future Supreme Court selections.

The problem of selecting Justices for the Supreme Court is fundamentally different from that of selecting judges for the federal district courts and courts of appeal. Unlike other courts whose roles are more limited, its principal function is the interpretation of our Federal Constitution, a document drawn in broad generalities leaving to the Court great freedom of interpretation. The result is that the political and ideological views of the Justices may have a more profound effect upon the decisions of the Court than their professional capabilities. In the other federal courts this is less true. Not having the last word as to the meaning of the Constitution, they must work within the views of the Supreme Court. Also, much of their work deals with the interpretation of statutes and precedents much more narrowly drawn and precisely phrased than the federal Constitution. So as to these courts professional qualifications—the ability to originate, reconcile and synthesize lawyers' concepts—are much more important than the political or ideological background of the judge.

Beyond its national importance and its importance to the President, the Senate and the political forces from which they each draw their support, the struggle for control of the Court is of deep-felt importance to those groups whose rights are most immediately dependent upon its decisions for enforcement, particularly those groups concerned with racial equality who found that the Court was their most dependable, and at times their only dependable, forum. It is also profoundly important to those whose way of life is being changed most drastically as a result of present Court interest. In addition there has usually been an accepted political effort to have a Court representative of the differing geographical regions of the United States. There is at present no representative of one southern circuit and the representative of the other is now 84.

The intensity of the political conflict regarding Judge Carswell was therefore exacerbated because, in addition to the usual political factors, it aligned in direct opposition to each other the proponents and opponents of government enforced desegregation and its central controversy concerned this most explosive national domestic issue.

Caught in the vortex of these political forces, the concern of the legal profession for the competence of the judiciary was perhaps less a force in itself than a target for the political groups gripped in a tight political contest. Nevertheless our Committee attempted to function as it does in less controversial cases without permitting itself to be used by either side of the political controversy.

One of the Committee's difficulties was, however, that its procedures as to Supreme Court nominations have never been as satisfactory as they are with respect to the other federal courts. As to the federal courts other than the Supreme Court, the Attorney General requests an investigation of the prospective nominee before any announcement of a nomination is made. Our Committee usually has an adequate period of time to complete its investigation, which consists of interviewing a substantial number of judges and lawyers as to the reputation of the person

under consideration for integrity, temperament and professional competence. The Committee then reports to the Attorney General its evaluation that the prospective nominee is either "not qualified" or that he is "qualified," "well qualified" or "exceptionally well qualified." In order for a nominee to be found well qualified or exceptionally well qualified, the Committee must conclude that he is a person which the Committee would have affirmatively recommended as one of the best persons available for the vacancy to be filled.

In connection with the Supreme Court, however, the Committee has never been given an adequate period for investigation. From the administration of President Eisenhower, who first utilized the services of the Committee in connection with the Supreme Court nominations through President Johnson, the procedure had been usually to give the Committee about twenty-four hours' notice of the prospective nomination and to ask the Committee to report as to the professional qualifications of the prospective nominee. At first the Committee attempted to use the same precise scale of evaluation that it did in the lower courts notwithstanding the abbreviated period of investigation. This practice was dropped in connection with the nomination of Justice Goldberg. From that time through the nomination of Judge Haynsworth the Committee reported simply "highly acceptable from the point of view of professional qualifications."

President Nixon departed from the practice of his predecessors and decided not to consult our Committee in advance of the Supreme Court nomination. Consequently, our Committee learned of the nomination of Judge Haynsworth and Judge Carswell only after they had been publicly announced. Our investigation was undertaken not at the request of the President or the Attorney General, but solely at the request of the Chairman of the Senate Committee on the Judiciary. In connection with its report on Judge Haynsworth, the Committee had concluded that it would in the future change its form of evaluation. In connection with the nomination of Judge Carswell, the form of evaluation was changed to a simple "qualified" or "not qualified" and a more extensive letter was submitted to the Senate Committee disclaiming any investigation of political or ideological factors and expressly limiting our evaluation to professional qualifications—integrity, temperament, and professional competence. Thus our Committee wrote:

"With respect to nominations for the Supreme Court, the Committee has traditionally limited its investigation to the opinions of a cross-section of the best informed judges and lawyers as to the integrity, judicial temperament and professional competence of the proposed nominee. It has always recognized that the selection of a member of the Supreme Court involves many other factors of a broad political and ideological nature within the discretion of the President and the Senate but beyond the special competence of this Committee. Accordingly, the opinion of this Committee is limited to the areas of its investigation."

The Committee had previously investigated Judge Carswell in connection with his appointments to the District Court and the Fifth Circuit Court of Appeals. In each case he had been found "well qualified" for the post to which he was being advanced. Nevertheless the Committee made an extensive further investigation in connection with his nomination for the Supreme Court. Thirteen circuit judges of the Fifth Circuit Court of Appeals were interviewed, as were a number of district judges sitting in the State of Florida. None of these judges expressed doubts as to Judge Carswell's integrity, temperament or competence. Most were enthusiastically in favor of his appointment. The only outspoken opponent expressed his

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They should be fired if they do not live up to their part of the bargain.

Americans with the skills and motivations to give this kind of help, to undertake new voyages of technological discovery, exist in many different kinds of organizations in the United States.

They can be found in universities, in private corporations, and in a host of private associations, religious and secular.

It may be that they should not be brought into the Government because government may not provide a suitable career for them.

The Government's primary task in foreign aid should be to receive requests from others and refer them to likely contractors in the private sector and to help with the negotiation of suitable contracts.

The Government should not be in the business of implementing this kind of foreign aid.

I can imagine an institution to implement foreign aid that is wholly outside government, directed and supported by one or more foundations on an unselfish basis.

Such an institution could be financed by both public and private contributions in the measure that its services were requested, and its contracts proved useful.

I believe Congress would support generously such an institution as an alternative to the progressive bureaucratization of foreign aid.

Such an institution is needed to encourage a new generation of Americans who are willing and able to work in the hot climates of the world where so many of the world's impoverished millions live.

Such an institution could play a part in encouraging private investment.

I can see no need for a new development bank as recommended by the Peterson task force on international development.

We have a sufficient number of international and regional development finance agencies now.

Insofar as their performance warrants it, we should continue to support these agencies.

But let us not forget that capital dressed up as foreign aid is simply a subsidy to the exporters in the rich countries.

We offer through the Export-Import Bank certain financial facilities for American exporters.

Perhaps they should be liberalized somewhat to accommodate some of the development lending now done by AID.

But when it comes to providing others with capital to buy things in the United States, that business should be conducted on a businesslike basis.

Borrowers come to a bank, like the Export-Import Bank, because they want to buy something in the United States.

That is purpose enough, and we do not have to dress that business up as development aid.

Here we run into that old foreign aid numbers game again.

We are told that capital, subsidized capital from the rich countries, is the first need of poor countries today.

We are not told that subsidies to exporters in the rich countries are needed,

or are what so many exporters desire. This seems to me to be a dangerous game, pretty much like a con game in which only the dealer can win.

To falsify the real price of capital in a poor country is not progress or development.

It is simply inhumane treatment. It could mean sentencing millions to misery if the capital thus provided deprived more people of a livelihood than it employed by exhausting their resources and limiting their income.

After all, poor countries have in the main one natural advantage in the competition among nations and that is a potentially vast pool of labor.

If foreign aid does not build on that advantage, it cannot be called humane.

We need a new American purpose in foreign aid because we are an activist people and because real inequalities in welfare among societies today affront our sense of justice.

But injustices cannot be expressed in terms of gross national product, nor can they be overcome by falsifying the function of capital in society.

No manipulation of foreign aid funds, no benevolent banker of poor countries, can buy us out of what is a historical predicament that promises to be with us for generations.

The real opportunity of the rich countries is not to offer subsidized capital but to see their own economies in global terms.

They must create more and more room in the world market for the production of the poorer countries simply to insure expanding opportunities for themselves.

More than anything else this means expanding the purchasing power of the people of the less affluent nations.

This is particularly important now that we live in a state of more or less permanent inflation because there is so much to do here at home.

Without more and more sources of production in the world markets, without the discipline of international competition, costs and prices in the rich countries will become even more absurdly unrelated to real human welfare than they are now.

When a haircut comes to cost \$10 in Washington or Paris or Tokyo, it is not going to be forty times better than a haircut that still costs a quarter in Bombay.

There is so much hypocrisy in the rich countries' attitude toward foreign aid.

To subsidize exports in the name of foreign aid, while at the same time barring imports from the very countries to which the aid is flowing, is not a new purpose—it is a very old hypocrisy.

If the rich countries really care about the plights of the poor, they will accept President Nixon's challenge to institute a system of global trade preferences designed to assure poor countries the right to compete in the world market with their new production.

We should also try to enter into agreements so that the rich countries do not use poorer countries as pawns in the international trade wars.

After all, the most serious and damaging effect on our own economy comes

not from the poorer countries but from the most prosperous nations.

I said I was in favor of divorcing the saints and the sinners of foreign aid in order to reduce the temptation that the present marriage provides for all those who want to play at intervention.

But obviously it is not always easy to tell the saints from the sinners in this business.

To search for a new purpose is much more difficult than the proponents of foreign aid would have us believe.

Perhaps if we abandon the numbers game, perhaps if we stop talking about vague concepts like development and start concentrating on the real possibilities of making technology the servant of the very poor who crowd the hot climates of the world, perhaps if the rich countries really begin to see their economies in global terms—perhaps only then will a new purpose emerge.

All of us are hoping that the President will give us a new direction, for not to do so would be to admit to a failure on our part.

Foreign policy must appeal to something more than very narrow notions of national interest if it is to enjoy sustained public support in this country.

Foreign aid used to suggest such a dimension.

At the same time a nation that can only express such purposes in terms of dollars is a nation in search, not of a new purpose, but merely of a sop to its conscience or a gratification to its desires.

Foreign aid is not worth it as a sop to our conscience for we will probably do more harm than good with it.

To sum up my remarks on foreign aid programs, I have these recommendations to make:

First. Do not use aid as an excuse for intervention in the affairs of smaller, poorer countries.

Second. Stop using the gross national product as a yardstick for comparing rich and poor countries.

Third. Use international banks for the business for which banks are intended, not for imposing our moral or political beliefs on the needy people of poorer countries.

Fourth. Recognize the fact that much of our aid programs over the past 10 years have simply made rich countries richer and poorer countries more discouraged.

In the absence of a new American purpose, perhaps it would be better to close the books on the past two decades of American foreign aid programs and leave the work to international agencies with such support from us as their performance warrants.

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

Mr. AIKEN. I yield.

Mr. MANSFIELD. I was delighted to receive a copy of the Senator's speech before he gave it. I have not given it as much detailed study as I would like, but I do appreciate the accent which he stresses, the emphasis which the Senator places upon people-to-people assistance rather than government-to-government assistance. The latter, I think, by and

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large, has been in all too many instances a complete failure.

The summing up of recommendations which the distinguished Senator would make for carrying out the foreign aid program meets with my approval. I think he has exposed some methods which have surrounded this program for too long. This idea of using the gross national product as a measure of what it means or does not mean—anyone can twist that as he sees fit. The suggestion that there should be more internationalization, certainly, I think is worth a great deal; and most important, the Senator's No. 1 recommendation, "Do not use aid as an excuse for intervention in the affairs of smaller, poorer, countries," I believe is most sound.

I commend the distinguished Senator.

Mr. AIKEN. Mr. President, I appreciate the remarks of our majority leader, and would tell him that I would have given him an advance copy of these remarks sooner, except that they were finished only about a half hour before I started delivering them.

Mr. MANSFIELD. May I say that in that respect the distinguished Senator reminds me many times of Adlai Stevenson, who was never able to get his talks down on paper until just before he started to speak. But I am delighted to have this copy.

Mr. AIKEN. Sometimes all of us slow down and have to be pushed up against a deadline before we can get to work.

But I particularly wanted to point out the travesty of using the gross national product in comparing the welfare of people in poor countries with the welfare of people in rich countries.

The gross national product is all right as a means of comparing ourselves with Japan or Western Europe; but when it comes to comparing our situation, our welfare, with that of people who live in some of the very poor tropical countries, the use of GNP for this purpose is simply a farce.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Maine (Mr. MUSKIE) is recognized for 10 minutes.

ERA OF NEGOTIATION?—PART I

Mr. MUSKIE. Mr. President, this morning, representatives of the United States, Saigon, Hanoi, and the Vietcong met for the 60th session of the Paris Vietnam peace talks. Nothing was accomplished, just as nothing has been accomplished on the negotiating front at any of the other Paris sessions since Ambassador Henry Cabot Lodge resigned his post, 126 days ago.

While the charade of talks goes on, the war continues in Vietnam and threatens to spread in other parts of Southeast Asia. Laos is a battleground and Cambodia is in turmoil. We teeter on the edge of a wider war without a semblance of an effort to negotiate a peace settlement in that troubled part of the world.

A negotiated settlement is the only answer that makes sense in Southeast

Asia, for those who live there and for the United States. A military solution is not viable for Vietnam, and it cannot bring peace in other countries of that region.

Unfortunately, Mr. President, the administration does not seem to be committed to a negotiated settlement. While it pursues the goal of false optimism with Vietnamization, the war goes on, casualties are up, and the dangers to world peace escalate. We are now told that the most the administration is planning, and the best it can achieve under Vietnamization is to have 225,000 troops left in Vietnam at the end of 1971—21 months from now.

This is a matter of grave concern to me and to other Members of the Senate. It is a matter which cannot be brushed aside by vague assurances and an attitude of wait and see.

I believe the time has come for the administration to turn its attention to a genuine effort toward a negotiated settlement, or to tell the American people why they have written off negotiations as the best way to end the fighting and the killing in Vietnam. For these reasons, Mr. President, I intend to raise the question about a negotiated end to the war in Vietnam each week in the Senate, until a successor to Mr. Lodge has been named and until some meaningful steps have been taken toward a settlement in Paris.

INCREASING DOUBTS

Each week more questions are being raised about the wisdom of the administration's policies and the directions in which they are leading us. A common thread unites the critics. The tragic conflict in Vietnam will know no satisfactory conclusion other than by negotiation.

As Gen. Matthew B. Ridgeway wrote in the New York Times, March 14, 1970:

Many continue to argue that a military solution, or 'victory', in Vietnam has all along been within our reach, that nothing less would serve our interests. I believe such a solution is not now and never has been possible under conditions consistent with our interests. . . .

A negotiated settlement, which I think we would all prefer, and which I believe we must ultimately reach, will be unattainable unless we retain the initiative and face up to these problems now.

Regardless of how much this may tax the wisdom and determination of our Government and the patience of our people, our decision is, I believe, the prudent one, and we should channel its execution into the mainstream of our long-range national interests.

Arthur M. Cox, in an article in the "Outlook" section of the March 22, 1970, Washington Post, noted the inconsistency in President Nixon's policies, when he wrote:

The President says Vietnamization is a plan "which will bring the war to an end regardless of what happens on the negotiating front." That is an impossibility which has been allowed to go unchallenged. The war will end only when one side wins a military victory or when a settlement has been negotiated. Since Vietnamization rules out serious negotiation, the only conceivable other assumption must be that the President is counting on the South Vietnamese to win their own war.

Commenting on recent events in Laos

and Cambodia, the St. Louis Post-Dispatch of March 22, 1970, noted in an editorial:

The coup in Cambodia and Communist military success in Laos re-emphasize what has been clear ever since the Geneva Conference of 1954—that peace in the whole Indochina peninsula depends on making peace in Vietnam.

If the Nixon administration had the wit to recognize this, it would forget about Vietnamizing the war and set about negotiating a Vietnam settlement, which in turn would make possible peace in both Cambodia and Laos. Unfortunately and tragically, the administration appears to be bent on moving in precisely the opposite direction—toward expansion of the war in Laos and Cambodia as a means of supporting the policy of Vietnamization. If this is an accurate estimate of its course, then the Nation is being condemned to more and more years of war in Asia after being solemnly promised an end to it.

CONFRONTATIONS VERSUS NEGOTIATIONS

Fourteen months ago, President Nixon declared in his inaugural address that the United States would, under his administration, forsake "the era of confrontation" for "an era of negotiation" in international relations. His intentions were applauded.

On our most vexing international relations problem, ending the Vietnam war, the longest war in our history, the President said later that his administration was "proceeding in our pursuit for peace on two fronts—a peace settlement through negotiations, or if that fails, ending the war through Vietnamization."

How do those words square with the administration's failure to name a high-level replacement for Ambassador Lodge as our chief negotiator at the Paris Vietnam peace talks for more than 4 months of the 14 months of the new Nixon "era of negotiation"?

Mr. President, the administration's declarations on trying to end the war in Vietnam through negotiations are in conflict with its record of performance.

Let me focus today on just one aspect of the problem—the impact of the 4-month vacancy in the office of the top U.S. negotiator in Paris.

Our interim representative in Paris, Philip Habib, is an able career Foreign Service officer. He probably knows as much or more about Vietnam than any public servant now working for the Government. But he has not had prior ambassadorial rank. He is not a confidant of the President. He does not have the prestige needed to deal with the Communists, to explore proposals they may make, or to take initiatives on our behalf. He is at a hopeless disadvantage in his assignment.

Mr. Habib was the No. 3 man on the U.S. delegation, first under Ambassadors Harriman and Vance, and then under Ambassadors Lodge and Walsh. The North Vietnamese and Vietcong delegates have made it clear, time and again, that their top people will not engage in major discussions with representatives from our side who in their view, lack top credentials.

They made this clear in the past as well as in the present. When Averell Harriman was not present, his able deputy, Cyrus Vance, was never able to meet with their top man. I believe the same

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situation prevailed during Ambassador Lodge's tenure. Since Ambassador Lodge resigned, the Communists have not once sent their chief negotiators to the talks, and they have told us publicly and privately that they will not engage in serious talks with Mr. Habib.

This may seem a mere matter of protocol to some, but I believe it amounts to shortchanging the negotiations on the part of the Nixon administration. Obviously, North Vietnam, a country of fewer than 20 million people, is going to be acutely conscious of such matters in dealing with the United States, one of the world's two superpowers, with more than 10 times its population.

This is, moreover, an unfortunate and foolish time to be disadvantaged by the level of our representation in Paris. Le Duc Tho, a member of Hanoi's politburo and acknowledged as one of the top 10 in the North Vietnamese power structure, returned to Paris recently after an absence of many months. But we have been unable to engage in any discussions with him because he will not do business with anyone Hanoi considers of lesser rank.

This imbalance is accentuated by the representatives of the two South Vietnamese parties. The Vietcong representative, Madame Binh, holds the rank of "foreign minister of the provisional revolutionary government." Since General Ky left Paris early last year, the Government of South Vietnam has been represented by Ambassador Lam, who now frequently fails to appear and sends a deputy to the weekly meetings. Apparently he wants to strike a pose of equality with the second-rank representation of the Communists.

This is a problem we have caused by our failure to replace Ambassador Lodge with a representative of equal rank. Even when Lam has been present at the sessions, he has been a negotiator of limited means, who has to obtain authority for virtually every move, no matter how minor, from his superiors in Saigon.

QUESTIONS NEEDING ANSWERS

Mr. President, what is the administration trying to convey by this unfortunate diplomatic-protocol gap in Paris?

Is it so pleased with the progress and future of Vietnamization that it feels that the whole conflict can be settled to our satisfaction by force? Or does it feel that the reduced but still enormous U.S. troop presence in the south is inadequate to let us speak effectively to Hanoi or Saigon, to get them to resolve their differences by negotiation?

What has the administration done to get Saigon to send to Paris a representative both able and willing to negotiate?

How does the administration propose to deal with the related instability and conflict in Laos and Cambodia?

Is the administration so certain, in the face of some contrary evidence, that Hanoi's position in Paris is one of total intransigence? Even if the administration is so convinced, does this mean it has no obligation to probe and to try? Does it believe the tough bargaining necessary to achieve a negotiated end to the war is not worth the time of a top-level appointment as our chief negotiator in Paris?

Has the administration written off negotiations? If not, what are its preconditions for resuming meaningful negotiations? Is it, in effect, asking North Vietnam to surrender?

Is the administration playing a game where the next move can be made only by the other side?

Have we given up the initiative toward peace to the other side?

I raise these questions, Mr. President, because they must be answered if we are to know what the administration's real intentions are with respect to Vietnam and the rest of Southeast Asia. We have been told that the administration has a plan for peace in Vietnam, but the hard questions remain.

I believe the American people have a right to get some answers to those questions, and I intend to raise them each week until they are answered.

Mr. GRIFFIN. Mr. President, will the Senator yield for a moment?

Mr. MUSKIE. I yield.

Mr. GRIFFIN. Mr. President, I listened with interest to the statement of the distinguished Senator from Maine. I am sure he does not intend to leave the impression or suggestion that the North Vietnamese have been negotiating or seeking to negotiate in good faith in Paris; or does he believe that is the case?

Mr. MUSKIE. I understand the questions I have asked leave impressions. The questions were very carefully asked.

These impressions would not exist if we were to get tangible reassurance from the administration that it considers the negotiations, though difficult, important to our national interest.

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

Mr. MUSKIE. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes so that I may respond to the Senator from Michigan.

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

Mr. MUSKIE. We have learned from our experience of over a quarter of a century that negotiating with the Communists can be a time-consuming, drawn out, and frustrating experience, we learned that during the negotiations following Korea; we learned that from our experience in Berlin.

The question is whether or not, notwithstanding these difficulties and frustrations, we regard this process, however difficult, as significant and important to our interests.

The question raised by the Senator's question is whether or not the administration—which he is in a better position to represent than I—has decided that the next initiative in Paris will be taken only by the other side and not by us.

Mr. GRIFFIN. Mr. President, will the Senator yield further for a brief observation?

Mr. MUSKIE. Yes.

Mr. GRIFFIN. Of course, I cannot let the record stand without noting that for many months the distinguished and very able former ambassador to the United Nations, Mr. Lodge, represented us in Paris; that every effort was made and has been made throughout many long, long months of negotiating to reach some

kind of agreement with the Communists at the negotiation table in Paris; and I also would dispute any suggestion that his successor who now represents the United States in Paris is not most able, most capable, most distinguished, and most qualified to represent this Nation at Paris.

Further, I wish to remind the Senator and note for the Record that the United States at all times has been willing and eager to consider any good-faith offer or serious suggestion which the North Vietnamese might put forth at any time. That has been true, it continues to be true, and it will continue to be true.

I thank the Senator for yielding.

Mr. MUSKIE. Whatever any of us say on this subject leaves impressions. The impressions I get from the Senator's comments are: First, because of the frustrations Ambassador Lodge faced prior to his resignation, we decided not to seriously pursue negotiations in Paris, and second, as a result of that experience, if any initiative is taken in Paris, it will have to be taken by the other side. I hope those impressions are erroneous. I raised questions in my prepared remarks which, if answered, would correct those impressions.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the order of yesterday, the Senate will now proceed to the consideration of routine morning business, with statements limited to 3 minutes.

The Chair recognizes the Senator from Vermont.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED APPROPRIATIONS TO CARRY OUT THE PROVISIONS OF THE FLAMMABLE FABRICS ACT

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations for fiscal years 1971, 1972, and succeeding fiscal years to carry out the Flammable Fabrics Act, as amended (with accompanying papers); to the Committee on Commerce.

REPORT ON THE NATIONAL ESTUARY STUDY

A letter from the Secretary of the Interior, transmitting, pursuant to law, volumes 2 through 7 of a report on the national estuary study (with accompanying documents); to the Committee on Commerce.

PROPOSED LEGISLATION AUTHORIZING THE DISTRICT OF COLUMBIA COUNCIL TO FIX RATES CHARGED FOR WATER, WATER SERVICE AND SANITARY SEWER SERVICES

A letter from the Assistant to the Commissioners transmitting a draft of proposed legislation to authorize the District of Columbia Council to fix the rates charged by the District of Columbia for water and water services and for sanitary sewer services (with an accompanying paper); to the Committee on the District of Columbia.

PROPOSED LEGISLATION TO LOWER THE MANDATORY RETIREMENT AGE FOR FOREIGN SERVICE OFFICERS WHO ARE CAREER MINISTERS

A letter from the Secretary of State, transmitting a draft of proposed legislation to amend the Foreign Service Act of 1946, as

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amended, to lower the mandatory retirement age of Foreign Service officers who are career ministers (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on U.S. imports of watch movements duty free from Virgin Islands which benefit the islands' economy, Department of the Treasury, Commerce, and the Interior (with an accompanying report); to the Committee on Government Operations.

PROPOSED LEGISLATION CONCERNING ILLEGAL USE, TRANSPORTATION, OR POSSESSION OF EXPLOSIVES

A letter from the Attorney General of the United States, transmitting a draft of proposed legislation to amend section 837 of Title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes (with accompanying papers): to the Committee on the Judiciary.

PETITION

The ACTING PRESIDENT pro tempore (Mr. SPONG) laid before the Senate a concurrent resolution of the Legislature of the State of Hawaii, which was referred to the Committee on the Judiciary, as follows:

HOUSE CONCURRENT RESOLUTION 14

Requesting congressional action on the repeal of the Emergency Detention Act of 1950

Whereas, Title II of the Internal Security Act of 1950, otherwise known as the Emergency Detention Act of 1950, provides that upon declaration by the President of the United States of a state of "internal security emergency," the President through the United States Attorney General, may apprehend and by order detain any person as to whom there is reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of sabotage or espionage; and

Whereas, Title II does not provide for a trial by jury or even before a judge, nor does it provide appeal to the courts, such civil rights and liberties being guaranteed under the United States Constitution, substituting instead the judgment of the Preliminary Hearing Officer appointed by the Attorney General and a Detention Review Board composed of members appointed de facto and paid by the Attorney General, the very official who initiates the proceedings for the apprehension and detention of the suspect; and

Whereas, this country has already experienced the tragic and regrettable consequences of the unnecessary and unwarranted internment of over 100,000 Americans of Japanese ancestry in detention camps during World War II without due process of law; and

Whereas, the Emergency Detention Act of 1950 was the product of another era when cold war tensions were at a fever pitch and when Communist subversion was the great national fear, however, in the last two decades our socio-political climate has changed greatly and other more meaningful, just, and effective laws and procedures to safeguard internal security could be used; and

Whereas, it is now imperative to eliminate a meaningless provision that has been used to generate equally meaningless fears among minority groups, and to remove the specter of concentration camps which remains in

America as long as such a provision remains law; and

Whereas, approximately nine bills have been introduced in the 91st Congress thus far calling for the repeal of Title II of the Internal Security Act of 1950 largely through the combined efforts of Senator Daniel K. Inouye and Representative Spark M. Matsunaga and which have been co-sponsored by an unprecedented one-fourth of the membership of the Congress; now, therefore,

Be it resolved by the House of Representatives of the Fifth Legislature of the State of Hawaii, Regular Session of 1970, the Senate concurring, that the President of the United States, the Vice-President of the United States, the Speaker of the United States House of Representatives, United States Senator Hiram L. Fong, United States Senator Daniel K. Inouye, United States Representative Spark M. Matsunaga, United States Representative Patsy T. Mink, and the chairmen of the respective congressional committees considering those bills calling for the repeal of Title II of the Internal Security Act of 1950 be, and hereby are, requested to take whatever action is necessary, including the holding of and participation at public hearings on the subject, to ensure the repeal of Title II of the Internal Security Act of 1950; and

Be it further resolved that duly certified copies of this Concurrent Resolution be transmitted to Richard M. Nixon, President of the United States; to Spiro T. Agnew, Vice-President of the United States; to John W. McCormack, Speaker of the United States House of Representatives; to each member of Hawaii's delegation to the United States Congress; and to the chairmen of the respective congressional committees which will be or presently are considering those bills calling for the repeal of Title II of the Internal Security Act of 1950.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. SPONG) announced that on today, March 26, 1970, he signed the enrolled bill (S. 2593) to amend the Immigration and Nationality Act to facilitate the entry of certain nonimmigrants into the United States, and for other purposes, which had previously been signed by the Speaker of the House of Representatives.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 14705. An act to extend and improve the Federal-State unemployment program (Rept. No. 91-752).

BILLS INTRODUCED

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

By Mr. FONG:

S. 3642. A bill to provide for the addition of certain property to Hawaii Volcanoes National Park in the State of Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. SCOTT (for himself, Mr. BROOKE, Mr. ALLOTT, Mr. BIBLE, Mr. BURDICK, Mr. CASE, Mr. COOPER, Mr. DODD, Mr. DOLE, Mr. GOODSELL, Mr. GRAVEL, Mr. HARRIS, Mr. HARTKE, Mr. KENNEDY, Mr. MCINTYRE, Mr. MUSKIE, Mr. PACKWOOD, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. SAXBE, Mr. SCHWEIKER, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, and Mr. NELSON):

S. 3643. A bill to provide for the issuance of a gold medal to the widow of the Reverend Dr. Martin Luther King, Jr., and the furnishing of duplicate medals in bronze to the Martin Luther King, Jr. Memorial Fund at Morehouse College and the Martin Luther King, Jr. Memorial Center at Atlanta, Ga.; to the Committee on Banking and Currency. (The remarks of Mr. SCOTT when he introduced the bill appear earlier in the Record under the appropriate heading.)

By Mr. SMITH of Illinois:

S. 3644. A bill to amend the Federal Aviation Act of 1958 in order to authorize free or reduced rate transportation for blind persons and persons in attendance, when the blind person is traveling with such an attendant; and

S. 3645. A bill to authorize appropriations to be used for the elimination of certain rail-highway grade crossings in the State of Illinois; to the Committee on Commerce.

(The remarks of Mr. SMITH when he introduced the bills appear later in the Record, under the appropriate heading.)

By Mr. MCINTYRE:

S. 3646. A bill for the relief of Bernardino Rossetti; to the Committee on the Judiciary.

By Mr. TYDINGS (by request):

S. 3647. A bill to authorize the Commissioner of the District of Columbia to lease airspace above and below freeway rights-of-way within the District of Columbia, and for other purposes;

S. 3648. A bill to provide improvements in the administration of health services in the District of Columbia, and for other purposes; and

S. 3649. A bill relating to the rental of space for the accommodation of District of Columbia agencies and activities, and for other purposes; to the Committee on the District of Columbia.

By Mr. HRUSKA:

S. 3650. A bill to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes; to the Committee on the Judiciary.

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

By Mr. NELSON:

S. 3651. A bill to amend section 510(h) of the Federal Food, Drug, and Cosmetic Act so as to require inspection thereunder at least once every 6 months of factories, warehouses, and establishments in which food, drugs, devices, and cosmetics are manufactured, processed, packed, or held; and

S. 3652. A bill to amend the Federal Food, Drug, and Cosmetic Act, as amended, to require that the label of drug containers, as dispensed to the patient, bear the established name of the drug dispensed; to the Committee on Labor and Public Welfare.

(The remarks of Mr. NELSON when he introduced the bills appear later in the Record under the appropriate headings.)

By Mr. DODD:

S. 3653. A bill to amend the Gun Control Act of 1968 to provide for better control of interstate traffic in explosive components; to the Committee on the Judiciary.

Vietnam
NEW YORK TIMES

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Sharp Rise in Enemy Infiltration in April Is Expected by U.S.

By WILLIAM BEECHER
Special to The New York Times

WASHINGTON, March 30—Intelligence projections of the infiltration flow into South Vietnam, based primarily on aerial reconnaissance of the lengthy route from North Vietnam through Laos, and into Vietnam, indicate that 10,000 to 15,000 North Vietnamese soldiers are expected to enter South Vietnam in April.

This would represent two to three times the rate of 3,000 to 5,000 men maintained over the last several months, Administration Vietnam planners say.

Qualified sources say that the projection of 10,000 to 15,000 men for April is based

on reports of men strung out along the southernmost reaches of the route. It is estimated that it takes three months to make the trip by truck and on foot, under heavy pounding from the air.

Questions on Offensive

In view of the heavy flow of weapons and ammunition over the last six months—double the rate in the same period a year ago—some analysts at the Pentagon and elsewhere are questioning whether another enemy offensive is being prepared.

But most senior military planners insist it is too early to tell. They say there is fragmentary evidence to suggest a

major schism within the Hanoi leadership over whether to continue the strategy of protracted war. One faction is said to favor stepping up the war in hopes of increasing domestic pressure in the United States to get out as quickly as possible, regardless of South Vietnam's military capability.

"If the higher rate of infiltration should continue for the next few months," said one high-ranking officer, "then we would look for a major new campaign."

Compounding the difficulty of prediction, the analysts generally concede, are the developments in Cambodia and Laos.

For example, military men say that the closing of Cam-

bodia's ports to North Vietnamese shipping could deal a substantial blow to enemy plans in the southern half of South Vietnam.

On the Laotian situation, Administration planners say that as long as American air strikes continue along the Ho Chi Minh Trail, the make-up of the Government there and the amount of territory controlled by Communist-led forces should not make much difference militarily in South Vietnam.

Pentagon and State Department sources say that North Vietnam has allowed its troop strength to fall for many months to the point where many North Vietnamese battalions are at roughly 50 per-

cent of their normal 450-man level. In a few instances two weaker units have been combined.

Supplies of rockets, mortars, small-arms ammunition and machine guns have been much higher than required by existing units, these sources say, both to compensate for recent captures of large caches and presumably to preserve the possibility of a big offensive.

Vietnam

U.S. Denies Improper Spy Contact

By Robert G. Kaiser
Washington Post Foreign Service

SAIGON, March 22—The U.S. embassy said today that an American diplomat who had contacts with an alleged Communist spy was only doing his job.

An embassy statement named a former U.S. political officer in Saigon as the man pictured in photos displayed by Vietnamese police at a press conference yesterday. But the embassy said the official was only performing his function as a political reporter when he talked with Bui Van Sac, the alleged spy.

Police showed a photo of Sac talking to an American yesterday. The embassy statement said he was Harold Colebaugh, a political officer fluent in Vietnamese who followed internal politics here. Colebaugh left Saigon last year, served briefly on the U.S. delegation to the Paris peace talks and is now in Washington, official sources said.

The police press conference yesterday and the embassy statement today suggest an unusual split between the allies.

The police statements left the impression that the South Vietnamese government might be trying to implicate U.S. officials with Communist spies in the minds of ordinary Vietnamese. And the embassy's rejoinder, U.S. officials acknowledged, was based in part on American indignation over such a suggestion.

In its statement, the embassy said it knew Sac was under investigation as a spy. The statement also said that other U.S. officials besides Colebaugh had met Sac "from time to time in connection with carrying out their official responsibilities."

In its explanation of Colebaugh's contacts with Sac, the embassy said: "As a political reporting officer, Colebaugh normally met with Vietnamese from many walks of life. This is a classical diplomatic function carried out by officers of all nations around the world. In view of this we attach no significance to the photograph in terms of mission interests or personnel."

Colebaugh was known here as a hard-working and competent diplomat with unusually wide contacts among Vietnamese. His extensive knowledge of the Vietnamese language included the most up-to-date diplomatic expressions.

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U.S. Embassy Defends Aides in Saigon Spy Case

By RALPH BLUMENTHAL
Special to The New York Times

SAIGON, South Vietnam, March 22—The United States Embassy acknowledged today that some of its officers had met periodically with an alleged North Vietnamese spy but asserted that the meetings had been part of a routine monitoring of political opinion in South Vietnam.

The statement followed a news conference yesterday in which South Vietnamese police officials circulated a photograph showing an American talking to several Vietnamese. Among them was Bui Van Sac, identified by the police as a high-ranking North Vietnamese intelligence agent.

In what seemed to be intended as a repudiation of any insinuation that the Americans were dealing secretly with the enemy, the embassy took the unusual step of issuing a special statement today. It identified the American in the picture as Harold F. Colebaugh, a political counselor who served here from January, 1966 to July, 1969.

Statement Read at Briefing

The embassy statement was read at the daily briefing on the war. It said that "As a political reporting officer, Mr. Colebaugh normally met with Vietnamese from many walks of life. This is a classical diplomatic function carried out by officers of all nations around the world. We attach no significance to the photography in terms of mission interests or personnel."

The statement added that other embassy officers had met with Mr. Sac from time to time and that these contacts had

Calls Meetings With Alleged Enemy Agent a Part of Routine Political Work

been "incidental to their activities of gaining local views and attitudes on the current scene in Vietnam."

Privately, sources close to the embassy indicated that officials were annoyed by what they regarded as an attempt by some South Vietnamese authorities to suggest that the Americans were dealing with the North Vietnamese behind the back of Saigon's leadership.

The Americans, it was understood, had not been informed in advance that the police news conference would bring up any relations between Mr. Sac and embassy officers.

Other Charges Discussed

The mission had been told that the news conference would deal with charges of enemy activities against student leaders. It was after those charges had been discussed that the police told of cracking a spy ring and of finding the photograph of Mr. Sac and Mr. Colebaugh, apparently in a restaurant.

The affair comes two weeks after the prosecution and imprisonment of Tran Ngoc Chau, an opposition deputy who was charged with pro-Communist activity for having met with his brother, a North Vietnamese intelligence agent. Mr. Chau said he had acted with the knowledge of some key American officials. The case was widely viewed as an attempt by President Nguyen Van Thieu to warn his countrymen against compromise with the enemy.

Mr. Colebaugh, the embassy officer in the Sac case, was generally regarded as a most

astute political counselor. His command of the Vietnamese language has been described as the most perfect ever attained by an American mission officer in South Vietnam. The 31-year-old Foreign Service officer was born in California and was graduated from Whittier College there in 1960. He served in the Army from 1961 to 1965 and joined the State Department that year.

After leaving South Vietnam he served with the American delegation at the Paris peace talks and was scheduled to return to Washington to attend a Thai language school.

Link to Thi Charged

The police officials who held the press conference, Col. Tran Van Hai and Col. Nguyen Mau, said that Mr. Sac had worked closely with Lieut. Gen. Nguyen Chanh Thi, now in exile in Washington, in planning two coups against Saigon Governments in 1960 and 1963.

The police officials said that Mr. Sac had occupied the general's quarters in downtown Saigon where he entertained visiting United States Senators and other American officials. The embassy statement today said that officials there had no knowledge of his meetings with the Senators or of allegations that secret American documents had been passed to Mr. Sac.

The statement seemed to be deliberately vague on the question of whether the embassy knew that Mr. Sac was working for the North Vietnamese when Mr. Colebaugh met him. The dates of any meetings were not given.

The South Vietnamese police even left unresolved the question of whether Mr. Sac was in custody.