that an immediate agreement to sell jets to Israel would go a long way to demonstrating to the Soviet Union that she cannot freely work her will in the Middle East. An additional, but most important, reason leading me to this conclusion is that it is one method of deterring the Soviet Union without committing even one American.

I have read with great interest and concern the recent article, "Suez is the Front to Watch," by Hon. George W. Ball, former Under Secretary of State, a man for whom I have the highest regard. His conclusions, however, are very disturbing. Although he seems to minimize the utility of selling additional jets to Israel, he too readily concludes that "we should be in a position to demand, on threat of direct military involvement, that the Soviets remove most, if not all, of their military personnel from Egypt."

It is of even greater concern to read reports this past weekend of "White House" and "other Administration sources" apparently ascribing to this thesis. Coming as they do on the heels of your announced new peace initiative, these reports have been a cause of great confusion about your position.

I must respectfully renew my urging for the immediate sale of additional jet aircraft to Israel and for a Presidential report to the Nation on this grave crisis.

Sincerely,

HARRISON A. WILLIAMS, JR.

Mr. WILLIAMS of New Jersey. Mr. President, I cannot find the words to emphasize strongly enough my deep conviction that time is of the essence.

Mr. President, I yield the floor.

ORDER OF BUSINESS

Mr. WILLIAMS of Delaware. Mr. President, notwithstanding the order that the Senator from West Virginia (Mr. BYRD) be recognized at this time, I ask unanimous consent that I be recognized for 3 minutes, and that the 3 minutes used by me not be counted against the time of the Senator from West Virginia.

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

SENATE RESOLUTION 428—SUBMISSION OF A RESOLUTION AUTHORIZING THE COMMITTEE ON COMMERCE TO CONDUCT AN INVESTIGATION OF FIRMS PROMOTING TRAVEL ABROAD BY AMERICAN STUDENTS

TRAVEL AGENCIES LEAVE AMERICAN STUDENTS STRANDED ABROAD

Mr. WILLIAMS of Delaware. Mr. President, in the July 7, 1970, issue of the Washington Star there appeared an article entitled "About 3,000 Tourists 'Stranded.'" This article outlines the desperate situation in which several thousand American students found themselves when stranded in Europe as the result of the bankruptcy of the travel agency with which they had placed their money.

A second article appearing in the Washington Post of July 10 indicates that these students will lose about 75 percent of their advance payments.

According to these articles, after these students were in Europe the travel agency declared bankruptcy, listing assets of about $800,000 against debts of around $4,000,000.

Surely the officials of this agency knew of their financial situation prior to the time that these students left the American continent, and I am requesting that the Senate Committee give attention to this problem.

The questions may well be asked, To what extent did this bankruptcy result from siphoning the money out of the concern by its management, and what is even more important, Do we need laws requiring the licensing or bonding of these travel agencies?

I have had somewhat similar complaints—not necessarily involving bankruptcy, but situations where students were misled when in making their travel arrangements they were not fully advised as to the limited coverage of the contract. For example, in some instances the stated cost covered standby travel alone with the possibility that even at the last minute the contract would be canceled with the student left at the airport, thereby necessitating the cost of additional hotel arrangements at the point of departure either in this country or on the return home.

There are reports that our American consuls in Europe and Asia are often confronted with the problem of assisting stranded students who have been trapped by the glowing promises of some travel agency advertisements.

In view of the serious hardships that result from such misunderstandings I am today requesting that the Senate Commerce Committee examine not only this particular case involving bankruptcy but also the industry in general to determine whether or not we need legislation requiring a greater responsibility on the part of these travel agencies, perhaps even to the extent of a bonding or licensing arrangement.

I ask unanimous consent that the three articles to which I have referred, together with an article published in yesterday's issue of the Wilmington Morning News on the same subject, be printed in the RECORD at this point.

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

[From the Washington (D.C.) Evening Star, July 7, 1970]

ABOUT 3,000 TOURISTS "STRANDED"

PARIS.—Several thousand American students found themselves temporarily stranded in Europe today after their Cincinnati-based tour group filed for bankruptcy.

But spokesmen for the group quickly arranged an airlift for the students—who are in Paris, Rome, Cologne, Geneva, Vienna, Athens and parts of Yugoslavia—promising "we have the money."

HAVE RESERVATIONS

Some of the students took the whole affair as a lark, others were bitter and a few were anxious. But nobody was suffering.

"Nobody has been stranded," asserted T. Budge Hyde, acting president of the World Academy, the ill-fated tour group.

"They are all safely housed in their accommodations and they have their plane reservations home." Five planes will leave New York today and seven more tomorrow to evacuate half the youths.

PETITIONS FILED

Hyde said there were about 3,000 students on the tour program throughout Europe.

"We already sent 600 to 700 of them home in the past few days up to today," he added.

World Academy and four of its subsidiaries filed voluntary bankruptcy petitions yesterday in U.S. District Court of Cincinnati.

The agency's brochure had offered the young people "the best of all summers," a study trip to Europe with school work and classroom credit worked in.

"We are no longer financially able to meet commitments for transportation and accommodation," a statement from the organization said. An attorney said the firm had assets of about $800,000 and debts of $4 million.

[From the Washington (D.C.) Post, July 10, 1970]

BANKRUPTCY RETURN

CINCINNATI.—A bankruptcy referee said the 3,200 high school and college students stranded in Europe when a travel agency went broke will receive 10 to 25 cents on the dollar on the total amount they paid for their trip.

World Academy Inc., the now-bankrupt firm that arranged the student tour, had arranged for airline tickets for the students but had not paid for food and lodging.

The students paid between $700 and $1,000 for the trip.

[From the Wilmington (Del.) Morning News, July 9, 1970]

STRANDED STUDENTS TO RETURN

Thirteen Archmere Academy students stranded in Europe when their travel agency declared bankruptcy will be returning to the United States by today or tomorrow.

Father Alexander Arndt, the academy's registrar, said the students will arrive in New York City on a Capitol International Airlines flight.

The Archmere students were among 3,500 students stranded when the agency, World Academy Tours for Foreign Study, Inc., filed a bankruptcy petition.

The students were left with their return air tickets but without food and lodging.

The Archmere students and four other students in their group had toured Italy and were in Geneva, Switzerland, when they learned they would have to return.

Mr. WILLIAMS of Delaware. I submit, for appropriate reference, a resolution, Senate Resolution 428, and ask unanimous consent that the resolution be printed in the RECORD.

The PRESIDING OFFICER (Mr. BIBLE). The resolution will be received and appropriately referred and, without objection, will be printed in the RECORD in accordance with the Senator's request.

The resolution, Senate Resolution 428, which reads as follows, was referred to the Committee on Commerce:

S. RES. 428

Resolved, That the Committee on Commerce, or any duly authorized subcommittee thereof, is authorized under sections 134 (a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to make a full and complete study and investigation of firms promoting travel in foreign countries by American students, with particular reference to the financial responsibility of such firms.

SEC. 2. The committee shall report its findings upon the study and investigation authorized by this resolution, together with such recommendations as it deems advisable, to the Senate at the earliest practicable date.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia (Mr. BYRD) is recognized for 10 minutes.

THE UNITED STATES SHOULD CRY OUT AGAINST INHUMANE TREATMENT OF PRISONERS WHEREVER IT OCCURS

Mr. BYRD of West Virginia. Mr. President, Americans are understandably shocked by the statements which have been made in the last few days with respect to mistreatment of prisoners by the South Vietnamese.

I note some conflict in the reports concerning conditions at Con Son Island, some 60 miles off the coast of South Vietnam, and I would say, first, that efforts should be made to get a correct assessment of the facts. If any action is called for by our Government, decisions should not be made on the basis of sensational reports in the press alone.

If the reports are true, however, the mistreatment of prisoners should be condemned strongly. The United States should withdraw any financial aid that might contribute to prison conditions such as those which have been described in the news media, and our Government should use every means at its disposal to compel the government in Saigon to treat prisoners humanely.

Men and women—many of the political prisoners—reportedly have been incarcerated in windowless cells or cages under extremely primitive and unsanitary conditions. Allegedly, some have been shackled to iron bars in the floor and have been beaten until they cannot stand. The food given them, apparently, is below the subsistence level, and, according to the news reports, they have been "disciplined with dustings of choking lime."

All of this is abhorrent and foreign to the effort we have been making in behalf of the South Vietnamese people, and is of direct concern to the United States, if the investigation—preferably by the Red Cross—which should be made bears out the allegations.

This situation is closely related to another prisoner situation in which Americans are also deeply involved and about which we should be increasingly concerned and active, and that is the situation in which American military personnel are being held as prisoners of war by the North Vietnamese.

What is happening to these men? we do not know, since Hanoi has not even had the humanity to reveal the names of the Americans it holds prisoners. The families of these men do not know if they are dead or alive. If they are alive, they, too, may be the victims of mistreatment and brutality. Certainly the unfortunate families of these men here at home are the victims of fear and dread as to the fate which has befallen their loved ones. This is cruelty carried to an uncivilized degree.

I cannot understand, Mr. President, why there is no apparent concern for these men on the part of those who demonstrate against America's efforts in South Vietnam. Why do we never hear condemnation of our country's enemies in North Vietnam for their callous inhumanity? Why are there no protests over what may be happening to U.S. airmen, soldiers, sailors, and marines who are held incommunicado in communist jails?

There is something dreadfully distorted about a public conscience which condemns warfare, yet condones brutality inflicted upon those who are in no way able to defend themselves. There is as much reason to condemn the North Vietnamese for their vindictiveness and recalcitrance with respect to prisoners of war as there is to condemn the South Vietnamese for their mistreatment of others held prisoner. Hanoi has kept American POW's in almost total isolation over the past several years, refusing even to let the prisoners communicate with their families in the United States.

The Geneva Convention of 1949 relative to the treatment of prisoners of war—to which North Vietnam subsequently became a signatory—provides that prisoners of war "shall in all circumstances be treated humanely." Hanoi is thus guilty of willful and flagrant disregard of an international agreement which it is pledged to uphold.

Mr. President, it is my hope that the disclosures with regard to Con Son Island will serve to focus new attention upon all aspects of the situation involving those held prisoner by either side in the war in Southeast Asia. America must always be strongly on the side of decency and humanity.

Hanoi and Saigon—can be influenced by U.S. public opinion. A nationwide outcry against mistreatment of human beings held as prisoners in this conflict is needed. Human treatment for them must be demanded. Our Government, our churches, our civic organizations, and concerned agencies throughout the land ought to raise their voices in protest against uncivilized cruelty and savagery, whatever the guise and whatever the country.

The American people—who have been so divided over the war itself—surely can make it plain to both Hanoi and Saigon that American public opinion is strongly united in its demand that prisoners be treated in accordance with civilized practices.

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

Mr. BYRD of West Virginia. I yield.

Mr. MANSFIELD. I commend the distinguished Senator from West Virginia on the statement he has just made relative to prison conditions as they affect both North and South Vietnam. I am delighted that he has shown, once again, his leadership in this area, among other things, by bringing his views to the attention of his colleagues in the Senate; and I hope most sincerely that what he has suggested will be given every attention.

Mr. BYRD of West Virginia. I thank the majority leader.

TERMINATION OF CERTAIN JOINT RESOLUTIONS AUTHORIZING THE USE OF THE ARMED FORCES

The ACTING PRESIDENT pro tempore. Pursuant to the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The LEGISLATIVE CLERK. A concurrent resolution (S. Con. Res. 64) to terminate certain joint resolutions authorizing the use of the Armed Forces of the United States in certain areas outside the United States.

Mr. MANSFIELD. Mr. President, if the Senator from Arkansas, who as chairman of the Committee on Foreign Relations is manager of the resolution, will yield to me briefly, I should like to suggest the absence of a quorum.

Mr. FULBRIGHT. I yield.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. FULBRIGHT obtained the floor.

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

Mr. FULBRIGHT. I yield.

Mr. SCOTT. Last night, I suggested a limitation of debate on this resolution of 10 minutes, 5 minutes to a side. It has been often debated before. I think we ought to be more generous, perhaps, than that, and I wonder whether the distinguished Senator from Arkansas would agree to 20 minutes, 10 minutes to a side.

Mr. FULBRIGHT. I do not believe I want to agree to a time limitation. I can assure the Senator, however, that my statement will not take over 10 minutes. I see no occasion for debate, but I want to make clear the procedural question that arose in the former consideration of this question. I do not believe I am disposed to make an agreement at this time.

Mr. SCOTT. I do not believe that we have a great amount of requests for time.

Mr. FULBRIGHT. I do not, either. If we can be allowed to proceed, I think we will be through with it.

Mr. SCOTT. I should like to ask how many requests we have on our side.

Mr. MATHIAS. I have some remarks to make. I have no knowledge of any other.

Mr. FULBRIGHT. The Senator from Maryland, as the Senator from Pennsylvania knows, is a sponsor of this resolution.

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

Mr. FULBRIGHT. I yield for a question.

Mr. DOLE. I might observe that we could talk until until the cows come home—they were mentioned in the last debate—but it probably is not necessary

that we have extended debate on this matter. I have only a few minutes.

Mr. FULBRIGHT. Talk to the cows?

Mr. DOLE. Until the cows come home.

Mr. FULBRIGHT. I have no intention of talking until the cows come home, whenever that may be.

Mr. SCOTT. Or until the chickens come home to roost.

Mr. FULBRIGHT. Mr. President, on June 24 I voted against a move to repeal the Gulf of Tonkin resolution offered by Senator DOLE, of Kansas, despite the fact that I strongly favor repeal of that resolution. I voted against repeal in the form in which it was brought up, however, for reasons I believe to be valid and substantial.

The first reason has to do with the traditions and standards of the Senate. One of the strongest Senate traditions—although it is not a formal rule—is that Senators do not call up proposals sponsored by others to be voted on prematurely, especially when they would do so for purposes quite different from those of the original sponsor. That was the case with the vote to repeal the Tonkin resolution. The original Mathias proposal, which is now before us, stands alone as a concurrent resolution, which does not require the signature of the President. It is the form provided for by the original resolution. In the form in which it was taken over and sponsored by the Senator from Kansas (Mr. DOLE), repeal of the Tonkin resolution became an amendment to a controversial bill, which, if enacted by the House of Representatives, will require the President's signature to become law.

When the Senator from Colorado (Mr. ALLOTT) subsequently employed a similar procedure prematurely to call up the so-called end-the-war amendment sponsored by the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Oregon (Mr. HATFIELD), the Senate voted to table the motion, declining to consider the proposal until its rightful sponsors were prepared to put it forward. This action was taken as more than a matter of privilege and protocol. It had to do with the maintenance of dignified, responsible, and orderly procedure. For the Senate to have done otherwise would have set an unfortunate example at a time when extremists of both right and left are showing contempt for orderly democratic procedure. As the majority leader said, the violation of mutual respect and courtesy involved in the proposal to call up the McGovern-Hatfield amendment prematurely threatened to turn the Senate's usual "atmosphere of comity and unity" into "a jungle of one-upmanship."

The same principle was involved in the Dole amendment for repeal of the Tonkin resolution. That is why I joined such strong supporters of the Senate's rules and traditions as the Senator from Mississippi (Mr. STENNIS) and the Senator from North Carolina (Mr. ERVIN) in voting against repeal of the Tonkin resolution in that form. I certainly intend to vote for repeal now that it is before us in its original and proper form as the concurrent resolution sponsored by the Senator from Maryland (Mr. MATHIAS) and approved by the Foreign Relations Committee.

Repeal of the Tonkin resolution under the Dole amendment was part of a larger legislative package which, taken as a whole, gave the repealer a connotation quite different from that which I believe to have been the intent of a majority in the Senate. I refer to the Byrd amendment, which purported to concede sweeping powers to the President, in his capacity as Commander in Chief, to initiate military action whenever and wherever he might wish, provided only that he thinks such action necessary to protect the lives of American troops, wherever they may be deployed. Read in conjunction with the Byrd amendment, which attempts to concede undefined powers to the President as Commander in Chief, repeal of the Tonkin resolution in the formed sponsored by Senator DOLE may be read as acquiescence in the Executive's contention that the Tonkin resolution was of no consequence in any case because the President, in his capacity as Commander in Chief, has full authority to make war without authorization by Congress.

In the form sponsored by the Senator from Maryland (Mr. MATHIAS) and endorsed by the Foreign Relations Committee, on the other hand, repeal of the Tonkin resolution would signify not a surrender to Executive presumptions but the removal of an inauthentic substitute for a constitutionally mandatory congressional authorization. It would clear the books of an enactment which has been interpreted as authorizing full-scale war in Southeast Asia although Congress had no such intention in adopting it. As endorsed by the committee, repeal of the Tonkin resolution would neither eliminate a valid congressional authorization for the Indochina war nor acknowledge the Executive's claim to the power to make war on its own. It would simply confirm and clarify an existing state of affairs, which is, that the war in Indochina is and always has been a Presidential war, initiated and conducted without valid authorization by Congress.

The repeal of the Tonkin resolution in conjunction with the Byrd amendment to the Cooper-Church amendment has the wholly different connotation of acquiescence in the Executive's inflated concept of the President's authority as Commander in Chief. It eliminates the Tonkin resolution not as illegitimate but as superfluous. This is attested to by the fact that the sponsor of the repealer of June 24 was also an ardent advocate of the Byrd amendment.

The matter is more than one of procedure, prerogative and courtesy in the Senate—important as these are. The two forms of repeal of the Tonkin resolution—that sponsored by the Senator from Kansas (Mr. DOLE) and that recommended by the Foreign Relations Committee—though nominally leading to the same result, in fact have radically different connotations. The one, coupled as it is with a legislative enactment which can be read as acquiescence in the Executive's claim to plenary war powers, represents an act of resignation, an attempt by Congress to give away its own constitutional war powers. The other approach, favored by the committee, would eliminate an illegitimate authorization and, in so doing, reassert the constitutional authority of Congress to "declare war," "raise and support armies," and "makes rules for the Government and regulation of the land and naval forces."

For these reasons I strongly recommend adoption of the concurrent resolution now before us, which would repeal the Tonkin resolution by majority votes of the two Houses, without depending on Presidential action. The present resolution is not redundant; it represents the only means through which we can repeal the unfortunate Tonkin resolution in such a way as to assert rather than resign from the constitutional authority of Congress.

This action is within the spirit of the commitments resolution passed last year by the Senate.

I am encouraged by various actions taken by the Senate, to indicate that this body, after a considerable period of acquiescence to the demands of the Executive, is reasserting its constitutional responsibilities.

I believe that this resolve of the Senate is the most significant development in recent years for the preservation of our constitutional democratic system of government.

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

The PRESIDING OFFICER (Mr. BIBLE). The Chair would advise the Senator from Maryland that an amendment is not in order until after the committee amendments have been disposed of, except by unanimous consent.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that it may be in order.

The PRESIDING OFFICER (Mr. BIBLE). Is there objection to the request of the Senator from Arkansas? The Chair hears none, and it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 9, after the word "upon", strike out "the day that the second session of the Ninety-first Congress is adjourned." and insert "approval of both Houses of the Congress."

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

The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, more than 7 months have passed since introduction on December 8, 1969, of the comprehensive foreign policy resolution (S.J. Res. 166) which in different and partial form reaches the floor today. The earlier resolution had several provisions that seemed to me to be important. But it was chiefly devoted to a single purpose: the practical application of the principle embodied in Senate's national commitments resolution of 1969 (S. 85).

That historic measure, S. 85, defined a national commitment as the use of American troops in a foreign country or the

contingent promise of such use. S. 85 resolved that it was the sense of the Senate that such a national commitment requires "affirmative action by the executive and legislative branches through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment."

The Senate had spoken and this resolution was justly acclaimed as a historic utterance. Yet the words of the Senate resounded boldly only because the actions of the Congress had long been so timid. The national commitments resolution issued from a body that for years had remained silent or irresolute in relation to national commitments—for years had allowed the Executive to act ever more freely with American troops abroad.

Even in this moment of rare assertiveness, moreover, from one point of view, the Senate spoke modestly. It did not declare the constitutional prerogatives of the Congress in words as emphatic as those used in the Constitution itself. In article II, section 8, after all, the Founding Fathers had assigned to the Congress every significant power of decision over the engagement of troops abroad. Far from giving the President the power to intervene overseas, the Constitution did not even permit him to intervene on the seas without congressional approval—even against piracies. The President is assigned the initiative power only to repel attack.

The Constitution does not make reference, of course, to modern weapons and military strategies—to nuclear deterrence or to protective-reaction strikes. But it does catalog all the likely military contingencies of the day—and it gives the decisionmaking authority to the Congress.

Congress is to "raise," "regulate," "support," "govern," and otherwise "provide" for the Armed Forces. Congress is to define and punish felonies on the high seas and other offenses against international law. Congress is to make rules concerning captures on land and water; and it is to declare war. Finally, Congress is to make all laws which shall be necessary and proper for carrying these powers into execution.

And yet, as we meet here today, all that has been finally enacted by Congress—beyond the long record of deference to the Executive in military commitments abroad—all that has been finally enacted into law is one poorly understood amendment restricting the use of ground troops in Laos and Thailand, which can probably be avoided if not evaded. After all this, the most important new congressional declaration of principle remains a sense of the Senate resolution in which we make bold to paraphrase the Constitution. A sense of the Senate resolution, moreover, that is violated by several standing acts of Congress.

In its context, I do not deny that S. 85 is historic. It is an important first step, a major new departure, for which its authors deserve all the acclaim they have received. But in a very real sense—unless its words are put into practice—it will seem in history as a case of a mouse that roared.

So it was to put the Senate's words into practice that Senate Joint Resolution 166 was introduced last December by the distinguished majority leader, the Senator from Montana, and myself. It was for the same modest purpose that Senators COOPER and CHURCH introduced their amendment to the Military Sales Act recently passed by the Senate, but yesterday, I regret to say, was dealt a blow in the other body that will probably prove fatal. It is for the same modest purpose, that a series of bills has been prepared belatedly to give Congress a role in the final stages of the Vietnam war—even if Congress shirked a responsible role during the inception of that war.

Mr. President, I do not attempt to avoid my own responsibility during this period of time in which I have been a Member of the Congress.

Now I do not deny that this analysis—both of the constitutional issue and of recent legislation—raised important questions. If these proposals are really so modest, and if the Constitution is really so clear, why, one may ask, is the legislation so controversial? Am I impugning the President's respect for the law of the land which he is sworn to uphold?

Do I mean to suggest that the House of Representatives was incomprehensibly negligent when it in effect instructed its conferees to reject the Cooper-Church amendment? My answer to both questions is an emphatic no. For the past actions of the Congress—both the Senate and the House—have created such a large body of inconsistent legal precedent, and have endorsed such extensive overseas deployments, that the present locus of power over military commitments has been hopelessly confused. In this situation, it is understandable that the executive branch, which like the rest of us is the victim of the barnacles of habit may not view with perfect accord the Senate's initial efforts to reassert the constitutional power of Congress.

For even the Senate has as yet failed to establish a coherent record. We have declared our position in S. 85. But we have a long record of action in conflict with these views. And as a continuing symbol of this conflict, we have allowed to remain on the books as the law of the land a series of enactments that implicitly grant to the President as the Commander in Chief the power to intervene abroad at his own discretion. A crucial step in an orderly and responsible reassertion of congressional power that can be understood by both the executive and the public is the repeal of these enactments of abdication—an abdication not of power, but of constitutional duty.

The proposal of last December, a joint resolution (S.J. Res. 166) was intended to repeal four such enactments, while at the same time giving the President authority to conduct military activities in Vietnam as part of a program for total withdrawal. The proposed repeal was to apply to the Tonkin Gulf, Middle East, Formosa, and Cuban foreign policy support resolutions; and in addition a committee was to be established to reexamine the national state of emergency created at the time of the Korean war and still in effect today. This approach would unite the executive and legislative branches in advancing the constitutional principles that the Congress and the President share the powers of peace and war and that neither can act alone to engage American troops abroad.

The reception accorded our resolution was highly gratifying. Largely because of the educational leadership of the distinguished majority leader and of the distinguished chairman of the Foreign Relations Committee and the members of that committee—and of course, because of the constitutional problems of the tragic war in Southeast Asia—our proposal attracted immediate and informed attention. I was especially grateful for the close examination given the resolution by the State Department and for the detailed testimony given the Foreign Relations Committee by the able and distinguished then Under Secretry of State Elliott Richardson. The administration indicated that it would not oppose our initiative. The subsequent months have seen a sometimes bewildering chain of events—moving so rapidly that it has been difficult to keep the underlying issues in view as we responded to the immediate crises. Most dramatic was the decision by the President to move troops into Cambodia without even cousulting the Congress. This action was followed by the Cooper-Church amendment to the Military Sales Act, judiciously providing for coordination of the Congress and the President should it become necessary to order our troops back into Cambodia. Meanwhile, Senator GOODELL's proposed amendment to the military procurement bill, designed to establish a timetable for U.S. withdrawal from Vietnam, was rewritten and expanded to apply also to Laos and Cambodia. As the Hatfield-McGovern amendment to end the war it has acquired over 30 or more cosponsors.

In addition, the Senator from New York (Mr. JAVITS)—with the cosponsorship of the Senator from Kansas (Mr. DOLE)—has introduced a major long-range proposal to codify for the future the specific powers of the Executive with regard to troop commitments overseas. And then, finally, in a surprise development, the administration supported introduction of an amendment to the Military Sales Act intended to repeal the Tonkin Gulf resolution. This passed overwhelmingly in the Senate. Now, however, the bill is moving into what appears to be a stalemated conference with the House, and I would submit that its prospects are in doubt, to say the least.

With regard to Senate Joint Resolution 166, the Foreign Relations Committee decided that the Tonkin Gulf and Middle East resolutions should be repealed by concurrent resolution, as their language originally stipulated, rather than by a joint resolution also repealing the Formosa and Cuban resolutions, as was envisaged in the initial version of our proposal. I agree with this change. It conforms more closely with the legisla-

tive history of the various resolutions and facilitates disposal of the Tonkin Gulf and Middle Eastern resolutions.

It has been suggested that repeal of the Mideast enactment at a time when our resolve in that region is under challenge might lead to misinterpretation abroad, even though the resolution in question has no direct application to today's crisis. Recent initiatives by the Senate reaffirming our determination to maintain a balance of power in the area should reduce the danger that repeal would be misconstrued. None the less, the concurrent resolution I am supporting now applies only to the Tonkin Gulf enactment. I would hope for repeal of the Mideast resolution at an appropriate time. And I also urge repeal of the Formosa and Cuban enactments, which—it would appear from their language—can be revoked only by joint resolution.

All four of these resolutions have already been on the books too long. Rather than authorizing the President to undertake specific military actions under specified contingencies and within a stipulated time period, these resolutions "support" the Executive claim of authority to act essentially at his own discretion, under his own authority, and without termination dates. Thus these resolutions implicitly deny their own necessity; and indeed the State Department has on occasion asserted that the President could have acted as he did without them either in Lebanon or in Vietnam.

Nonetheless, President Johnson's Under Secretary of State, Nicholas Katzenbach, testified before Congress that the Tonkin Gulf resolution was the "functional equivalent of a declaration of war." I myself—and, of course, many of us—have seen President Johnson personally and physically flaunt the document as full authority for his Southeast Asian actions.

Although there is some dispute among members of the Eisenhower administration on the President's attitude toward the powers of his office with regard to the Mideast resolution, it is clear from his public statements that President Eisenhower in essence accepted the principle of the national commitments resolution. At that time, ironically, the leading advocates of plenary Presidential authority came not from the Executive but from Congress itself.

President Nixon currently maintains that he has ample authority as Commander in Chief to protect forces that were already deployed when he assumed office. Two weeks ago we voted overwhelmingly to attach to the Cooper-Church amendment to the Military Sales Act language explicitly recognizing this Presidential power. In most cases, of course, protection of our troops is best achieved by removing them from poorly chosen positions and unnecessary combat; but it would be improper for the Senate to deny the President the authority to protect our troops by other means where necessary.

The constitutional challenge does not rest chiefly with the President. It rests with the Congress. As long as we leave the contradictions of precedent unresolved, the President will understandably base his actions on his powers as Commander in Chief rather than moving onto shifting sands and shoals of congressional positions. He will naturally deny his reliance on the Tonkin Gulf resolution, since that enactment is more congressional abdication than congressional authorization. It does not empower the President to take specific action; it supports the President in his own determination to take whatever action he believes is in the national interest. And even if the Tonkin Gulf resolution is to be considered as authorization for our presence in Vietnam, the President would be ill-advised to base his powers on it at a time when its repeal is being considered without a clear congressional intention to provide new authorization.

It was to avoid such confusion of the congressional purpose that I originally proposed repeal by a joint resolution which would also authorize an American military presenec during the period of negotiations and withdrawal from Vietnam.

In advocating repeal of the Tonkin Gulf resolution as a first step in a larger process, I do not need to reiterate its brief but embroiled legislative history. Suffice to say that later investigation by the Foreign Relations Committee and by various authors and journalists has cast grave doubt on the stated premises of the enactment. The U.S. destroyers said to have been "lawfully" present in international waters turned out to have been engaged in provocative military activities within the 12-mile limit; and what were described as "deliberate and repeated attacks" on these vessels left hardly a scratch. If the late Earle Stanley Gardner were to have written a detective story on these incidents, he might well have called it the "Case of the Cuckolded Congress."

A more timely consideration today is the fact that the resolution was interpreted as supporting an overwhelming and substantially ineffectual extension of the Vietnam war into the north through bombing of an intensity which exceeded even that directed against Germany during World War II. As long as this resolution remains on the books, it might some day be interpreted as authorizing a resumption of such attacks.

Also, in keeping this resolution on the books, Congress maintains an emblem of its own irrelevancy at a time when we are ostensibly moving to fulfill our constitutional responsibilities in the realm of military and foreign affairs.

This resolution should be repealed; and I support its repeal today through concurrent resolution not only because that is the legislatively prescribed way but also because this may be the only way. As I have said, however, in moving to repeal this enactment by concurrent resolution, it should not be imagined that we reduce the need to act on the other sections of the comprehensive resolution introduced last December.

In fact, repeal of the Tonkin Gulf resolution will make action on the rest of our proposals even more urgent. As the Senator from North Carolina (Mr. ERVIN) has said in an eloquent speech, simple repeal of the resolution would place our troops in a "constitutional quandary."

Unless we wish to pass by this opportunity to assert the principle we endorsed in the national commitments resolution, it is imperative that we follow up our repeal with action to grant the President authority to conduct the military operations that will be necessary under his plan for the withdrawal of all American troops. We should not attempt to ignore the laws of nature, both physical and political by trying to replace the Tonkin Gulf resolution with a vacuum. The President has moved away from the policies associated with the Tonkin Gulf enactment; away from what appeared to be the previous administration's plan for a military solution in Southeast Asia. It is time for the Congress also to move. It is time for Congress also to replace the Johnson plan for the war with a plan for withdrawal and peace.

We should specifically authorize in joint resolution those military operations necessary under our commitment to a rapid withdrawal of all American troops and under our continued effort to achieve a negotiated settlement. In accord with the President's professed intentions, we should prohibit repeated extension of the war to Laos, Cambodia, or any other countries without specific new legislative authority. And we should consider the imposition of new legislative constraints to assure early full withdrawal and negotiated peace. These limits and authorizations, moreover, should be enacted in joint resolution with the force of law when signed by the President. Without such a resolution, I repeat, the Congress will signify that it considers itself optional on the most vital issues of war and peace and will abdicate its constitutional responsibility.

The President has undertaken a major shift in Vietnam policy since he assumed office. In recognizing this shift, I think we understand that it is to some extent precarious. If Congress does not act to corroborate it, if Congress relapses into a posture of irrelevance, there are forces in the executive branch which will move into the legislative void that we leave after repealing the Tonkin Gulf enactment. There are forces within the executive branch that may attempt to reverse the current presidential policy of withdrawal.

I do not believe that the President should have to face these pressures alone. I do not believe that the entire political burden of the shift in Vietnam should be borne by the President alone. Just as I believe that Congress should have been more deeply involved in the decisions of engagement in Southeast Asia, so I believe Congress should participate now in this historic process of engagement.

Because this further part of the proposal is to be a joint enactment, with the force of law when signed by the President, it would bring the Congress and the executive together again under the Constitution, with the Congress playing its specified role in matters of war and peace. And it would bring the two branches together again on the road to peace. Let us act quickly now on this

repealer to take the first steps in this redemptive journey.

Several Senators addressed the Chair.

Mr. MATHIAS. I yield to the chairman of the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, I wish to compliment the Senator on a very thoughtful and perceptive statement. He deserves much of the credit for bringing this matter to the attention of the Senate in proper form. His discussion of its significance is very useful.

I think his effort to help the Senate shoulder, as he said, part of the responsibility with the President in solving the tragic conflict in Vietnam is a very proper one. I compliment the Senator for what he has stated.

Mr. MATHIAS. I am thankful to the distinguished chairman for his words and for his own leadership, which has been so important from the very beginning of these efforts.

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

Mr. MATHIAS. I am happy to yield to the distinguished majority leader.

Mr. MANSFIELD. I want to join the distinguished chairman of the Foreign Relations Committee, the Senator from Arkansas (Mr. FULBRIGHT), in extending my felicitations and thanks to the distinguished Senator from Maryland.

What we have before us now is, in effect, the Mathias resolution, a resolution which the Senator from Maryland submitted originally on his own behalf, which represents his own thinking, and which I think represents the thinking of the Senate as a whole, perhaps unanimously—who can tell?—but certainly the thinking of the great majority of Members of the Senate.

I think it is a good first step in the right direction of bringing about better coordination between the legislative and executive branches. I am delighted that the President and the administration have indicated their support in rescinding the Gulf of Tonkin measure. In so doing, it gives us the opportunity to work together, so to speak in tandem, to bring to an end this ill-founded resolution.

Mr. MATHIAS. I thank the majority leader not only for his words today but for his continuing encouragement and support.

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

Mr. MATHIAS. I am happy to yield to the Senator from Kansas.

Mr. DOLE. Let me say, first of all, that I commend the Senator from Maryland for his initiative. It was the initiative of the distinguished Senator from Maryland along with the distinguished Senator from Montana, which now brings this resolution to the floor.

Let me add that nothing that may have transpired on the floor of the Senate last month, on the 22d or 24th of June, should in any way detract from that initiative. The Senator from Maryland has made an outstanding contribution.

I would hope, of course, that the House might act on a proposal that will now be in conference, which includes the amendment I offered on the 22d of June and which was adopted on the 24th of June, as I recall, by a vote of 81 to 10, so that the President might also participate in the repeal of the Gulf of Tonkin resolution.

I would like to ask a question of the distinguished Senator from Maryland with reference to the proposal offered originally. As I understand the Senator's amendment, it simply indicates an earlier effective date. Is that correct?

Mr. MATHIAS. The Senator from Kansas is right. He will recall that at the time his own amendment was before the Senate, with his concurrence I made the same proposal—that the effective date of the repeal should be at the time of its approval by both Houses of Congress, rather than at the expiration of the 91st Congress, as provided in the original resolution.

Mr. DOLE. I thank the Senator.

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

Mr. JAVITS. Mr. President, I join my colleagues in congratulations to the Senator from Maryland for introducing, with the support and help of the majority leader, the resolution he did last December. I say this notwithstanding the fact that I myself perceived, even before then, the critical aspect of terminating the Gulf of Tonkin resolution in the eventuation of U.S. policy with respect to ending war in Vietnam.

Indeed, several months before the Senator from Maryand (Mr. MATHIAS) submitted his comprehensive resolution—in October of 1969—I joined with the Senator from Rhode Island (Mr. PELL) in submitting a specific concurrent resolution to terminate the Gulf of Tonkin resolution.

I am very grateful to the Senator from Maryland (Mr. MATHIAS), the Senator from Montana (Mr. MANSFIELD), and the Senator from Arkansas (Mr. FULBRIGHT) for joining me, as they have, as principal cosponsors of the Mathias resolution which has finally, after considering all the other phases relating to different resolutions of commitments for the United States, brought us here.

Mr. DOLE. Mr. President, will the Senator yield briefly so we may order the yeas and nays?

Mr. JAVITS. Surely.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second for ordering the yeas and nays on final passage?

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, we are down essentially to the point where I started and which was one of the elements of the original proposal of the Senator from Maryland (Mr. MATHIAS).

Much attention has been directed to the so-called End the War Amendment of Senators MCGOVERN and HATFIELD, my own colleague Senator GOODELL, Senator CRANSTON, and Senator HUGHES. We have all been visited by literally thousands of college students, members of faculties, and many other persons interested in the so-called peace movement, urging us to be for the McGovern-Hatfield end-the-war amendment.

As I have stated before, if it came to a vote, I should probably vote for it. But, Mr. President, in evaluating actions which will help bring us out of the Vietnam war, I value repeal of the Gulf of Tonkin resolution as of the first priority I respectfully submit that if those who are interested in peace for the United States will analyze the situation carefully, as I shall now try to do, they will come to the same conclusion. The lobbying should have been directed to that in my view.

There may be many arguments about the effect upon the President in his capacity as the spokesman of the United States in foreign policy—and that is unquestioned in our history—inherent in directing him to quit a given place and a given war because we withhold the money. There can be no question about the utilization by the Congress of its authority, acknowledged by President Johnson when he signed the Gulf of Tonkin resolution, that when he thought it was no longer needed, or when we thought it was no longer needed, it could be terminated. This is, therefore, an admitted, uncomplicated, unprejudicial assertion of congressional authority.

We find it is no longer desirable to have on the books this authority from us for the President to wage war in Asia and, therefore, we take it off the books. Really, that is the end-of-the-war resolution. That is the critical point. Really, then, what we are enacting today, hopefully, is the end-of-the-war resolution.

Now, what happens if that resolution is off the books? I say this to my colleagues also with an eye to the other body. Their concurrence also is required with respect to repeal of the Gulf of Tonkin resolution, and apparently they are concerned. We saw that just yesterday in respect of the highly desirable, long-debated, and historic achievement of Senators COOPER and CHURCH here on the floor. They are our brothers on the other side. Apparently they are very reluctant to invoke the ultimate remedy of cutting off money and giving the President directions. That is what it really comes down to, because if he cannot finance it, then he cannot do what he believes may be in the best interests of our country.

This is a tough one, I agree. But, nonetheless, there can be no question, if they too agree that it is done to get out, and that is all this comes down to. They, too, would agree without any of the reservations which are implied under directions of the President that, having the authority by law signed by the President to signal the point at which we think it is time to get out, this is the way to do it. This is completely unprejudiced in terms of the foreign policy powers of the President. It is not an invocation, as it were, of a mandatory authority—to wit, "We cut off the money unless you obey our orders"—but it is rather the exercise of discretion, the act of our wisdom, based upon a complete legislative authority in which the President joined with us in giving us that power.

So, I repeat, I know that perhaps in the press and in the media, perhaps even

in the minds of many Senators on this floor, this Gulf of Tonkin termination is somewhat perfunctory. I do not want to make a big thing of it and lose any votes, but I deeply believe, in the perspective of history and the law—I shall analyze the law, but will not detain my colleagues too long—this action is the "end of the war resolution."

Now, Mr. President, a word about the law, since that is very significant and very important.

There is no real deficiency, Mr. President, in the definition of the legal powers of Congress as they relate to warmaking, or any dearth of interpretation of those powers. What has really occurred is that, for 40 years, since President Franklin D. Roosevelt utilized the Executive authority in putting troops into Iceland and in the so-called destroyers-for-bases deal, Congress has been willing to forego its responsibility, to abdicate its responsibility, and to allow the Executive essentially to carry on the warmaking power in its modern cense. It is only in the most adverse circumstances, such as Pearl Harbor, that Congress has utilized its power.

In addition, Mr. President, there was for a long time an absence of refinement of the proposition that Congress did not have only the warmaking power, which it could exercise through a declaration of war, but that it also could exercise the warmaking power through other parts of the Constitution, including its authority over the Armed Forces of the United States in terms of their Government as well as in terms of their financing and in terms of their disposition, other than their tactical disposition, which was up to the President as Commander in Chief.

Now, Mr. President, because of the terribly disillusioning experience of the Vietnam war, we are, at long last, going into this area; and, as in every war—and there is a war in Congress, too; there is lots of shot and shell and confusion here—somehow a line of action emerges. That line of action is now becoming clear. The action that we will take today is the important, and I think decisive turning point in respect to it.

The action taken on the original Church-Cooper amendment with respect to Laos and the action taken on the Church-Cooper amendment with respect to Cambodia were really defensive in their nature. They sought to limit the theater of war. They sought to avoid peripheral actions which threatened to expand the theater of war and to expand America's exposure. They were absolutely right, and they were absolutely essential; and I believe that the objectives which were sought have, in substance, been accomplished.

Now we get to the main show, which is the Vietnam war. The question is now, first, what are the legal relationships, and second, once we settle the legal relationships, what should be our policy?

Gulf of Tonkin termination is critical to clearing the books of any residual legal authority we have given the President. Once the books are cleared—that is why I speak today with an eye to the other body, which is reluctant to move into this field except in a very orderly way and a way which is justified by the precedents—and I believe that the termination of Gulf of Tonkin is fully justified by the precedents—once we have Gulf of Tonkin off the books, then only the constitutional authority of each body remains. We have ours, the President has his. I think it is only fair to say, in all deference to the view of the President, that he himself, through the Secretary of State, said on December 23, in a press conference; We have not relied on the Tonkin Gulf resolution particularly. We were faced with a situation when we came in office in Vietnam, and I am not sure the legalities are all that important.

Also, the President himself has said, in his most recent presentation to the country, in the interview which he had with TV commentators, that the legal basis for his action is his power as Commander in Chief. When he came in, there was a war, and it was his responsibility to deal with forces at war. He did not put them at war, they were at war.

The implication is clear that he is not proceeding on the authority of Gulf of Tonkin. I think that is fine. I have no desire for us to have a tug of war with the President. It is much better if we do not.

Therefore, I think the road is clear to terminate Gulf of Tonkin and put the President and ourselves on even basis as to our respective constitutional authority.

The next question is, Then what? I believe we face two new propositions. First, shall we express our satisfaction with the rate at which the President is now exercising his constitutional authority to liquidate the war and withdraw our forces? Or, should we endeavor to interpose our ideas in that regard? And the final question is, Shall we endeavor to do a better job than we have up to now in respect of making clear the respective constitutional powers of both the President and Congress hereafter—and I emphasize that word—in respect of making war. In view of the speed with which modern emergencies break, and of the fact that it seems highly unlikely that we will, at least in cold blood, utilize the declaration of war power, because of its invidious aspects, as raised in international law and embargoes, such a new clarification is required.

I have endeavored to deal with this final step myself by the introduction of a bill S. 3964. I hope very much other Senators will deal with it, or use their minds and ideas in respect to it. I introduced my bill, S. 3964, on June 15.

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

Mr. JAVITS. I yield.

Mr. FULBRIGHT. The Senator has made a very fine statement. He has a great reputation as a lawyer and former attorney general of the State of New York, and I know we are all interested in his views about our Constitution and how it applies in our present difficulties.

What prompted me to ask the Senator to say a few words further about it was that he made mention of the speed of modern life. That seems to imply that, in some way, we should modify the Constitution, and should accept some form of updated interpretation of it.

The Committee on Foreign Relations asked former Under Secretary of State Katzenbach about the Constitution, and he more or less said the war power is obsolete, presumably because of the development of modern technology. This bothers me a good deal.

There is no idea in my mind—and I do not think there is in the mind of the Senator from New York—that the President at any time lacks the power to respond to any kind of attack. He can always respond to an attack. I do not, however, see that the alleged need of speed in instances other than response to a sudden attack should govern our interpretation of the Constitution—or serve as an excuse to reinterpret the Constitution. The decisions we are talking about are not of that character.

The alleged incidents in the Gulf of Tonkin did not require, under any circumstances I can imagine, an immediate response. As a matter of fact, the President had already responded when the resolution was put before Congress. He had already ordered the attack. The attack had already taken place upon the mainland of North Vietnam. He asked us to approve what he had done and then add, as a plus, that in the future he might do these things at his discretion.

I hope the Senator will demolish the idea that, because airplanes fly fast or because television is instantaneous, we should modify the provisions of the Constitution and now say that Congress no longer has a role to play in warmaking. I do not think that is true. I think that is an injection into this matter of an idea that has no place in it; because nobody contests that if we are attacked by missiles or in any other way, the President has—and has always had—the authority to respond, that is quite different from going 10,000 miles away with 500,000 troops and making war.

Mr. JAVITS. I thoroughly agree with the Senator. That is best evidenced by the fact that it took some 6 months to deploy some 500,000 troops in Vietnam. That could not be done overnight, notwithstanding modern means.

Mr. FULBRIGHT. As a matter of fact, he did not even begin within 6 months, because he presented the Tonkin resolution as a means of avoiding having to deploy any troops. That was the stated purpose of the resolution as he presented it to the Senate.

Mr. JAVITS. The Senator from Arkansas has always been very realistic about that, and it is to his credit and character as a man. He has always stood up for the proposition that he, too, as the rest of us—I join in that fully, in responsibility—was taken in by the fact that at a moment when a President who might be facing unforeseen eventualities came to us and said, "Show your confidence in me and in our country by giving me the broadest possible powers, and I will use them with great discretion." We did not doubt our President. We gave him the broadest possible powers.

A number of Senators—Senator NELSON, Senator COOPER, Senator FULBRIGHT, I, and others—observed that it was a

blank check; but we were, under the circumstances, asserting our confidence in the American system. That confidence turned out, unhappily for us and even for President Johnson, to have been very much misplaced. It just shows that you do not always do a fellow a favor when you give him a broad mandate of power.

Mr. FULBRIGHT. Exactly. It would have been a great favor to him as a leader if, instead of taking that course, we had had the wisdom to say, "Now, look, this is all very well; but we're going to have full hearings. We want a report from the field."

It never occurred to me that the events in the Gulf of Tonkin could have been misrepresented. It was so forcefully represented by the highest officials—the Secretary of State, the Secretary of Defense, the Joint Chiefs of Staff—that it did not occur to me that this could not have happened as it was reported to have happened.

There is no use again saying that I was mistaken, and that it was a great mistake not only on my part but also on the part of the Senate.

I commend the Senator from New York for having introduced a resolution which will be the vehicle for examination of future policies. That is a very proper and timely thing to do. It has been said often that, because of modern technology and the rapidity of communications, for some reason we must let ourselves be led down the road of abandoning the Constitution. I do not see that these have anything to do with the constitutional question. I cannot think of one situation right now—in modern times, at least—to which this would have any application at all. If the Russians or anybody else fires a missile at us, there is nothing in the Constitution that anybody now or in the past would claim would prevent the President from responding.

Mr. JAVITS. Not only to respond, but it is also his duty to respond.

Mr. FULBRIGHT. On the other hand, I certainly do not want this modern technology to be interpreted to mean that, when the President so chooses, any day he wakes up and feels in a bad humor, he can fire weapons off without any authority or without even the knowledge of Congress.

This is what really bothers me about Cambodia. The expansion of the idea that, as Commander in Chief, he can go into a new country without even notifying—much less asking the approval of—Congress, or the Senate, raises a very serious question in my mind. I do not want to precipitate an argument now about the character of the sanctuaries.

Let us consider this for the purpose of illustration, without trying to accuse the President of having done anything improper. Let us consider it only as a recent illustration of an action which can certainly be interpreted to be an attack or an incursion upon a neutral country with which we had been at peace. I do not see, simply because the President wants to act quickly or surreptitiously, that this could possibly or reasonably be interpreted as justification for ignoring the Constitution.

Mr. JAVITS. There is no question about the fact that the powers of the Commander in Chief, as interpreted by us currently and as interpreted, I think, by the highest constitutional experts, currently reserve in the President the full authority to deal with the repulse of any attack or even grave endangerment of the United States or of the security of our forces, wherever deployed, provided this does not imply committing ourselves by the same channel in which we were committed to a war in Vietnam.

All it amounts to is an accommodation between the President and Congress that, where the exigencies of the security of the country really require, in substantive fact, a rapid response or an automatic response by the President, he has complete authority—indeed, the duty—to make it.

Mr. FULBRIGHT. Exactly.

Mr. JAVITS. But at the moment when the interposition of Congress becomes possible because it is clear that this is going to be much more protracted, more involved, will have more forces at stake, and perhaps involve broader dangers—a major war or something like that—it is equally the duty of Congress to interpose itself and the duty of the President to see that Congress is interposed.

I can see no inconsistency between carrying out those powers and the provisions of the bill I have introduced. In fact, my bill makes all this explicit. As the Senator has said, it is a vehicle for inquiry and exploration. My standard of judgment was to define the areas we are talking about in which the President could respond immediately, and then to set a 30-day limit as being an arbitrary figure, but which would still take care of all urgent contingencies before Congress must get into it or authority is canceled.

Others may have better or different ideas, but this does not change anything in the Constitution. It only enforces what is already contained in the Constitution. We have the right to make appropriate laws and the President will have to join us in signing it, or we will have to override his veto. But it is entirely susceptible of being made the subject of law, as I have attempted to do in S. 3964.

Mr. FULBRIGHT. Finally, I want to ask one other question and to invite the comment of the Senator from New York on a proposition that has grown up in matters of foreign affairs especially relating to the war powers. The idea has grown, as spelled out by Mr. Katzenbach, that Congress should not seek to intervene. Really, it was Dean Acheson, in his famous statement of 1951, which was reproduced in the report of the Foreign Relations Committee on the national commitments resolution. Mr. Acheson said in 1951 said that Congress has no right to interfere with the President's discretion in the use of the Armed Forces.

It is interesting to see how the idea has grown up that, due to modern technology, Congress no longer has any role to play.

What has interested me is how, in domestic affairs, as evidenced recently by a rather unusual overriding of a veto, Congress is not a bit reluctant or hesitant to exercise its authority.

I think that, in the Constitution, the power of Congress to declare war, to raise and support armies, and to make regulations pertaining to the Armed Forces is just as explicit, if not much more so, than some of our powers in domestic affairs—especially when we get into the welfare area, where congressional authority is not explicit at all, so far as the Constitution is concerned. That has been a matter of interpretation.

It seems strange to me that Senators or Representatives, who all work hard to be elected—which means that they wish to play a part in the Government of this country—seem to be eager to relinquish their authority or the role that they are to play in foreign affairs, but not in domestic affairs.

For the record, let me read what Dean Acheson said in 1951. It shows how far things went. He, of course, was considered to be an able lawyer as well as Secretary of State:

> Not only has the President authority to use armed forces in carrying out the broad foreign policy of the United States and in implementing treaties, but it is equally clear that this authority may not be interfered with by the Congress in the exercise of powers which it has under the Constitution.

That is a broad statement which is extremely misleading.

I wonder, would the Senator from New York comment on why some Senators, and Members of Congress seem to be more than eager not to play a role or take any part in foreign relations, as opposed to domestic relations. This seems especially incongruous when we look back over the past 20 years, or since World War II, and note that the country has expended more than one thousand billion dollars on military affairs, far more than it has spent on education, health, and many other activities that need improvement. Yet, they seem to want to relinguish their authority in the field of foreign affairs. Why? This is a peculiar psychology, a phenomenon I do not understand, and I should like to ask the distinguished Senator from New York to comment on it.

Mr. JAVITS. My feeling is, having forfeited their authority for 40 years because of the alleged complexity of the world, it has grown to be built in. The only privilege Congress reserved to itself was the privilege of being for or against the President because he was or was not doing what they thought the country needed.

I thought the events of the past four decades brought Congress to this pass, and that the Vietnam war, when it went wrong—as it is did—finally encouraged Congress to reassert the authority which it always had and could have asserted at any time.

As a lawyer, I believe that I could interpret what Dean Acheson said in 1951 in such a way as to let him out of the implication the Senator from Arkansas reads into it. I could construe his words as having meant that Congress should do nothing, while the President is negotiating or is speaking with the heads of governments, and so forth, to undercut him in terms of the President's authority, prestige, and so forth, rather, to be

careful when they listen to him, to feel that he speaks the views of the country. I do not think that is necessarily so. But Dean Acheson was going much further than that, because he was talking to the Congress. He was saying to it, "Foreign affairs is the business of the Executive. Your business is to vote us the dough when we ask you for it."

That is the exclusivist view of the presidency which I think by now is out of date. We could probably get Dean Acheson to agree with us on that today.

Thus, I do not think it is any longer germane as to our colleagues. I think this terrible vale of tears through which we have passed has been a salutary "waker-upper" as to what is really our responsibility. So far as this country is concerned, they will not let us off the hook just because for 40 years we yielded that authority to the President. That is what it comes down to.

Mr. ELLENDER. Mr. President, I regret that I was not here to listen to all the arguments made by my good friend from New York in respect to the repeal of the Gulf of Tonkin resolution. As I told my respected friend from Arkansas on several occasions, I would almost give my right arm had I persisted in the adoption of the amendment that I proposed to section 2 of the Gulf of Tonkin resolution. I felt that portions of section 2 were really and truly a declaration of war. My desire was to strike from it the power of the President to use our armed forces as he determined.

What are we going to gain by repealing the resolution?

Mr. JAVITS. What we will gain is to clear the books of any residual authority given to the President pursuant to the Gulf of Tonkin resolution, which has no termination date except as it may be declared by the President or may be declared by us.

Mr. ELLENDER. As the Senator from Arkansas stated awhile ago, the President had already acted; our troops were in South Vietnam, when the resolution was adopted. He already had some of our Armed Forces there to do our bidding. What we were doing was merely saying to the President, "Do what you think is necessary with our Armed Forces to protect the integrity of South Vietnam in giving the people a chance to choose their own government. Go to war if necessary, we are with you."

We cannot restore the situation. We cannot simply erase history. The President had already acted before the Gulf of Tonkin resolution was adopted and the resolution sanctified what he had done, and we gave him authority to proceed with our Armed Forces as he determines.

I am sure that the Senator remembers, not too long after the Gulf of Tonkin resolution was enacted, that the President sent for us. He talked to all of us in groups, composed of about one-third of the Senate in each group. When I was present, I discussed the resolution with him, in the presence of others and I said that in my opinion he was going too far in the light of promises made before the resolution was adopted. I felt that we would soon be engaged in a real hot war. He said that the Congress had empowered him to proceed.

When I first read the resolution before its adoption, I thought it was simply giving the President a right he already had; that is, to protect our ships in the Gulf of Tonkin in international waters.

When section 2 was added, I was surprised. I am sure that the distinguished Senator from Arkansas remembers that I discussed the matter with him on the floor, and I thought then that it was a declaration of war and asked why was it necessary to go that far.

I was informed, as I remember—and if I am not stating it correctly, I wish the Senator from Arkansas would challenge me—that the purpose of the resolution was simply recognizing the right of the President to defend our ships in international waters; that he could do whatever he thought was necessary for that purpose. When I raised the question of its application to our land forces, I was informed at the time that although this language was written into the resolution, yet the President did not intend to use it, but it was smiply to back him up in his efforts to try to obtain some settlement of the issues involved. With that understanding, I dropped the idea of my amendment to the resolution and took it for granted that the President would simply use it for the protection of our rights in international waters.

Mr. JAVITS. The Senator from Louisiana has asked me two questions.

One, the Senator says are we not trying to lock the barn door after the horse has gone——

Mr. ELLENDER. We cannot efface history. It has been done.

Mr. JAVITS. Right. I will answer that.

Second, was not the method of giving the President, by section 2, a much broader authority than he really needed at the time?

I will answer the second part first. Of course, it was much broader. Of course, the Senator from Louisiana has divined exactly why it was much broader. It was an effort to inspire confidence in the country and the world by showing how much confidence we had in our President.

Mr. ELLENDER. And to also get the Congress involved in backing him.

That is what the President was after.

Mr. JAVITS. Exactly right. So we give him a broad mandate to "assist any member or protocol state of the Southeast Asia collective defense treaty requesting assistance in defense of its freedom."

The other question concerns whether we are not locking the door after the horse has gone. There I say definitely no, and for this reason. The President has stated, "I am going to get out of Vietnam, but on my own timetable, which I am not acquainting you with in the Foreign Relations Committee, and on certain conditions."

Those conditions are three. First, progress in the Paris peace talks—obviously nil. Conditions two and three, however, are very trying in a very substantive way.

The second condition is Vietnamization.

The third condition is the degree of force expended against our forces by the North Vietnamese or the Viet Cong.

Those are two of the three conditions the President has set.

Vietnamization is the readiness of the South Vietnamese forces to take over. Now we see them thinned out and spread into Cambodia which was never contemplated by Vietnamization. This makes it absolutely indeterminable. When will they be ready? Are they doing, as we lawyers say, everything reasonably necessary to make them ready? All of these things are left up in the air.

Even if they are ready, they might decide tomorrow to have an expedition into Laos or North Vietnam or Communist China. They would then be less ready than ever.

Now, concerning the degree of force used by North Vietnam and the Viet Cong against our forces we have never hesitated to bomb the sites of antiaircraft weaponry directed at our airplanes. They can intensify that and we could go back to the bombardment of North Vietnam. We would then once again be in over our ears. Moreover, the alleged potential threat of a later attack against our forces in Vietnam was cited as a justification for attacking into Cambodia.

We are now under the necessity, it seems to me, of clearing doubts concerning residual authority which, if the President wished to invoke it—and he said that he does not, but he could if he wished to—would leave us in a position of being absolutely unable to determine when to get out of Vietnam.

It is necessary to clear the books of that. And if we are not satisfied with the pace of the withdrawal, we may be able to do a good deal about it. But so long as this resolution is on the books, it seems to me that we are inhibited. Our hands are tied. We have given the President the authority and taken it away from ourselves. We should now restore our ability or capability. In the strict military sense, we may not actually exercise any power, but we would restore to ourselves the right to do so by this concurrent resolution.

That is why we consider this matter to be so critically important.

Mr. ELLENDER. Mr. President, does the Senator believe that President Johnson had the right to do what he actually did before the resolution was enacted?

Mr. JAVITS. Mr. President, I think President Johnson had the right if there was an attack on U.S. naval forces to act to prevent further attack or to punish those who had attacked, by reason of his power as Commander in Chief. That is all he had the right to do.

Mr. ELLENDER. I agree. Mr. President, I do not believe he had the right to do more, except through the Congress. I doubt if many Senators felt that this resolution went beyond that point, that is, to protect our ships in international waters, until they began to read and study the resolution.

I thought it dealt solely with the situation that had developed in the Tonkin Gulf. But on the day the resolution was considered and I read section 2—and particularly the last four lines of that section—I felt that it was really and truly a declaration of war.

Notwithstanding that, the Senate voted to give the President that power. And, as I have said, now that there has been a fait accompli, I still think the President has the right to protect the soldiers that were there and those he sent there later by virtue of the resolution.

Mr. JAVITS. The Senator is absolutely right about the fact that he has the right to protect the soldiers and that he has the right to pull them out. But he does not have the right under the guise of protecting the soldiers without congressional authority to broaden the theater of the war or the commitment; he does not have the right to leave them in at his sole discretion when leaving them in continues to involve the United States in a broad-scale war.

The only way we can demonstrate that as a matter of law is by clearing the books, as the Senator says, of the very resolution which gives him that authority.

If he continues to invoke this power, we say, "Mr. President, you say you don't want this. Fine; we don't want it either. Let us take it off the books." This is the "end of the war" resolution in my judgment.

Mr. ELLENDER. Mr. President, that is what President Nixon contends. I do not suppose that President Johnson would have said that, because most of the fighting was started under his administration.

I am proud to say that I was in South Vietnam at least four times before we became engaged in this war. And I begged President Eisenhower and Secretary John Foster Dulles not to send trainers to train troops there and not to make it possible for us to develop an army there for the use of Diem.

I well remember that when I was invited to the White House a few days after this resolution was enacted as I previously stated, I took issue with the President. And we got into quite a hot debate. The Senator from Montana (Mr. MANSFIELD), I believe, was there. I told the President in no uncertain terms that what he was doing was contrary to what was represented to us before the resolution was agreed to.

President Johnson said in substance, "Congress gave me the power, and I am exercising it."

Mr. JAVITS. He who giveth it will now take it away, I hope.

Mr. ELLENDER. Well, if we take it away, what good would come from it? Would that in any manner jeopardize the President's authority to continue the war until it is ended?

Mr. JAVITS. I believe it will in no way jeopardize the President's ability to do what he has the right to do as Commander in Chief.

Mr. ELLENDER. What is that right?

Mr. JAVITS. Mr. President, that is the right to command our troops and to see to their security and their withdrawal.

I believe that will give Congress the ability to determine the matter with him. And if he resists, then Congress has the right to do it by overriding a veto because Congress has the right to "undeclare" the war. That is the real constitutional issue.

Mr. ELLENDER. Does the Senator mean when war is actually going on?

Mr. JAVITS. That is right, when it is going on. Otherwise, when do we undeclare it?

Mr. ELLENDER. When it is completed, when the President, our Commander in Chief, so decides.

Mr. JAVITS. I am sorry. I do not believe the President alone can determine the lives and the future of his countrymen by being the sole decider of when to terminate the war.

That is the real issue here. And that is not under the Constitution, in my judgment, the exclusive power of the President. That is a power that he shares with the Congress, consistent with the security of the troops under his command. When the Mansfield Commander in Chief amendment to Cooper-Church was agreed to and when the one I offered about Congress power was agreed to unanimously, that stated the issue very clearly.

Mr. ELLENDER. Mr. President, is the Senator telling us that if war should be declared and the Congress takes action to declare a war or sanctions it, that the Congress can in turn terminate it at will by a resolution?

Mr. JAVITS. Consistent with the security of our troops.

Mr. ELLENDER. Who is to determine that?

Mr. JAVITS. The President is to determine that later.

Mr. ELLENDER. Of course. Our Commander in Chief must make the decision.

Mr. JAVITS. If I may finish. Another important point of that the matter of consistency with the security of our troops is not a coterminous decision with the President's decision as to when the war is to be over.

Mr. JAVITS. It is only coterminous if he is as resolved as we are to terminate that war. Then the decision with respect to conditions for terminating and withdrawal is a decision relating to their security; but it is not the substantive decision that we are getting at. It is not his decision alone. For, if that is the case, then we have lost the power as representatives of the people over the lives of the people.

Mr. ELLENDER. I thought the Commander in Chief was the one to determine when to end the war.

Mr. JAVITS. No.

Mr. ELLENDER. Since we gave him the right by resolution to engage in war.

Mr. JAVITS. He who giveth can also taketh away. That is why we are terminating the resolution.

Mr. ELLENDER. Does the Senator believe that the President can act and go on and carry on the war without this resolution?

Mr. JAVITS. He can, under the circumstances to the extent required to bring the war to a conclusion and to disengage our troops with the maximum security to them. That is my definition. In other words, when Tonkin Gulf is cleared from the books the President has the authority to bring this war to a conclusion and withdraw our troops consistent with their security. As Commander in Chief that is the power he has.

Mr. ELLENDER. Who makes the decision?

Mr. JAVITS. We are going to make it when we repeal this authority. When he no longer has the Gulf of Tonkin authority he is remanded to his position under the Constitution, which I have tried to define.

Mr. ELLENDER. And his duty hereafter is to terminate the war as soon as possible and get the troops out?

Mr. JAVITS. Consistent with the security of American troops. The reason is that this was has now gone long beyond the point of replying to an attack. It is a question solely of, Shall we be at war? That decision, without a declaration of war, is not in the hands of the President alone. He has authority in concluding the war but he cannot, in effect, make a war.

Mr. ELLENDER. Suppose, in trying to withdraw American forces from South Vietnam, something should happen in Cambodia whereby the North Vietnamese and the Viet Cong or maybe the Cambodians might turn against us. Is the Senator saying the President would not have the right to proceed?

Mr. JAVITS. I am not saying that. When it comes to protecting the lives of American troops, he could even go into Cambodia in "hot pursuit." I have always said that.

President Nixon's mistake with respect to Cambodia was that he made a big international issue about going in, leading us to believe he was ambivalent about it, that, he did not know, for sure, if he was going in to prop up the government in Cambodia or to protect the lives of American troops which were seriously threatened on their flank.

Mr. ELLENDER. Is it the Senator's view that by repealing this resolution, that it amounts to an order from Congress for the President to end the war?

Mr. JAVITS. I would not say it is an order. I would only express my judgment as to where the Constitution at that point leaves the President. It is not an order. I am glad it is not an order. I am very reserved about such an order. I am not a cosponsor of the McGovern amendment, and neither is the Senator from Arkansas (Mr. FULBRIGHT) or most other Members of the Committee on Foreign Relations. I am very reserved about orders to the President under the American system, just as I am about orders from him. But I think it leaves him only with his constitutional authority; and this being a war that has gone on for 5 years and it can no longer be justified on the ground of reaction to attack, I think it leaves him only the authority to liquidate it.

Mr. ELLENDER. To get out.

Mr. JAVITS. To get out.

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

Mr. JAVITS. I yield.

Mr. BROOKE. I have listened very attentively to the distinguished Senator from New York. As has been said, he is a most able lawyer and his logic is usually unassailable. Perhaps my question is premature. The Senator is generous because I understand the Senator from New York has been allowing questions after he began his discourse but that

he has not even completed his statement.

Mr. JAVITS. I have not.

Mr. BROOKE. The Senator made the statement that this resolution is the critical issue, and that we may not even have to get to the McGovern-Hatfield amendment or some variety of the McGovern-Hatfield amendment.

Is it the position of the Senator from New York that repeal of the Gulf of Tonkin resolution will enable us to get out of Vietnam?

Mr. JAVITS. It will if the President concurs with the view that I have expressed, that considering the length of the war and the history involved, his power as Commander in Chief leaves him only that alternative: to end the war and withdraw our troops in an appropriate way consistent with their security.

Should the President construe his powers differently than I do, then the Congress will have to act, if it does not like his timetable or if it does not like his conditions. But I express the hope, as an American, that it would be in the highest interest of the country if one of two things were possible. If the President made clear to us that he does accept this constitutional view and would give some satisfaction as to the timetable that he has in mind, so that we can rely on it, this would be best. Second best would be if he said, "OK. If you do not like my timetable, give me yours." This could be done in such a way that he would have the privilege of signing or not signing, and we could override, in the great hope we could share with him the timetable. The third eventuality is the approach of being completely dissatisfied in terms of the national interest of our Nation. The first alternative is best, the second alternative is second best, and the third alternative would be some version of the McGovern-Hatfield measure where we would be exercising our own judgment. He still has to sign that, too, as it is on a bill for authorizations. I regard this the least acceptable of the three. I do not like to see in the American system the President ordering us or Congress ordering the President.

Mr. BROOKE. What would be the congressional recourse if the President does not withdraw the troops on a timetable satisfactory to Congress?

Mr. JAVITS. The congressional recourse would be a law which, as I have said, hopefully he would sign, which would fix a timetable. But if it were clear that we were at loggerheads, the only power of Congress would be the power of appropriations.

Mr. BROOKE. This would be the McGovern-Hatfield approach, or some variety thereof.

Mr. JAVITS. The Senator is correct. But Congress might proceed under other powers which the Constitution gives it with respect to governing the Armed Forces. For instance, in a given case, we have directed the draftees should not be sent abroad. We did that in the 1940's. The power was used in the national security act setting up of the Department of Defense, which sets up the current structure for the governance of our Armed Forces.

Second would be a revised McGovern-Hatfield looking to the governance of forces, saying that on and after a certain date our forces should not serve in a certain theater. But to cut off the money is drastic. That is my reason for being reluctant to go on to the McGovern measure as a cosponsor. This would be an exercise of our power, but one which would be relatively unilateral and I do not welcome that one. We may have to do it, but I do not welcome it.

Mr. BROOKE. The Senator thinks, then, that the first attempt should be an accommodation with the President on a timetable for withdrawal.

Mr. JAVITS. There is no question about it. There is a large substantive reason for that and it is this. The people talking about withdrawal must face a very hard fact. Things may go very wrong in Vietnam when we withdraw. We cannot avoid that. They may go very wrong. We must be prepared to face it. We cannot guarantee success in withdrawal any more than the President could guarantee success if he stays. Indeed, I think he is less likely to have success if he stays.

So things may go very wrong, and in terms of the future of our country, I think it is critically important, especially in view of that as a possibility, that the Congress and the President share the responsibility, so that neither one is in the position of saying to the other, "I told you so," which I think is very important to the future health of our country.

Mr. BROOKE. In the Senator's view, is the McGovern-Hatfield resolution anything more than an attempt at accommodation with the President on a timetable which has been established by Senators McGovern, Hatfield, and others who cosponsor that resolution?

Mr. JAVITS. I think in form and tone, it is, because in form and tone it assumes we must mandate and must order the President. I do not say it is in substance. I agree with the Senator. But in tone and form, it is, and that is important, because it may make the difference between Presidential concurrence and nonconcurrence. I would rather seek, if we can, within a reasonable time, this goal of the President, for the reasons I have stated.

Mr. BROOKE. I believe the President has already established a timetable for withdrawal, approximating 150,000 troops per year.

Mr. JAVITS. That is not correct, if I may correct the Senator. That is the big nubbin of the issue. The President says we are getting 150,000 out by the 1st of April. As to the rest, we have three problems. He says we will get 150,000 out by the 1st of April. That is good. But he does not promise anything to the remainder. He leaves it completely open He does not promise anything as to the withdrawal of the remainder, and he conditions final withdrawal upon two conditions which give Saigon one veto on Vietnamization, and Hanoi another veto in terms of the pressure they put upon our forces.

Mr. BROOKE. Did not the President say he would withdraw 150,000 troops by April, and that all troops with the exception of logistical troops would be out of Vietnam by the end of 1971?

Mr. JAVITS. I am not aware of any such promise.

Mr. BROOKE. He did not go that far?

Mr. JAVITS. I am not aware of any such promise.

Mr. BROOKE. Is there a possibility, however, that we might be able to work out an accommodation with the President as to what that rate of troop withdrawal would be?

Mr. JAVITS. That is correct; I certainly hope to.

Mr. BROOKE. That would be a matter for negotiation and discussion with the President. If we agreed on that, is it the contention of the Senator from New York that we would not have to go as far as the McGovern-Hatfield resolution, or the tone of the McGovern-Hatfield resolution, and order the President to have the troops withdrawn by withholding funds?

Mr. JAVITS. That is my premise there.

Mr. BROOKE. I thank the Senator.

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

Mr. JAVITS. I yield.

Mr. MILLER. I have been listening to the colloquy with a great amount of interest. I must say I am somewhat concerned, as a result of the colloquy involving the Senator from Louisiana, in that there appears to have been some misinterpretation of the scope of the Gulf of Tonkin resolution. I grant that in just reading the Gulf of Tonkin resolution one might think it is not too broad in scope, although it does refer to use of "armed force." It does not say the use of navy armed force or air or ground; it is the all-encompassing use of "armed force."

I think we all understand that in determining what Congress intended to mean by this, we must look at the legislative history; and the legislative history, made right here on the floor of the Senate on this particular point, was well made in the colloquy between the Senator from Kentucky (Mr. COOPER) and the Senator from Arkansas (Mr. FULBRIGHT), who was managing the resolution. As I recall the colloquy, it went something like this:

Senator COOPER. Do I understand that the authority provided by this is such as could lead to war?

And the response of the manager of the resolution, the Senator from Arkansas, was:

That is the way I would interpret it.

That indicates the intention of the Congress to grant powers which could lead to a war. That is why former Attorney General Katzenbach took the position before Congress that it was a declaration of war. It was not a formal declaration of war, but it was a declaration of war sufficient to satisfy the requirements of the Constitution.

Now I am concerned about the interpretation that the Senator from New York has placed on the results of a repeal of the Gulf of Tonkin resolution. If I understood him correctly, he emphasized that it represented an "undeclaration" of the war, and that meant the only powers the President would be operating under then would be his constitutional powers as Commander in Chief; and, according to the Senator from New York, that

would mean that we would withdraw in an appropriate way as soon as possible, consistent with the security of our troops.

I can agree with that as far as it goes, but I suggest respectfully that there is more to it than that. There is more to it than merely the security of our troops. I think what has to be added is "and consistent with our commitments under our treaty obligations." In other words, one could interpret "withdrawal as soon as possible consistent with the security of our troops" to mean, get out of there within 3 months, and if there is no hostile enemy action to interfere with the security of our troops, then that interpretation would be satisfied. But what about the South Vietnamese, whom we have been assisting under the treaty, pursuant to our treaty commitment? Such precipitate withdrawal could be a disaster. Vietnamization is designed to prevent such a disaster. It is designed not only to enable us to withdraw, and withdraw consistent with the security of our troops, but also to live up to our treaty commitments.

Mr. FULBRIGHT subsequently said: Mr. President, a moment ago, the Senator from Iowa, in questioning the Senator from New York, made a reference to the Senator from Arkansas reply to a question which I think leaves an inaccurate sense.

I ask unanimous consent to have printed at the proper place in the RECORD, where the Senator from Iowa referred to me, an excerpt from a statement I made previously here, which I have in my hand, only because I do not wish to take the time of the Senate to read it, I ask unanimous consent to have it printed in the RECORD at the proper place, following the Senator from Iowa's statement with regard to this matter.

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

EXCERPT FROM STATEMENT OF SENATOR FULBRIGHT

During debate I was asked, in my capacity as floor leader, whether the Resolution would authorize or approve the landing of large American armies in Vietnam or China. I replied that "there is nothing in the Resolution, as I read it, that contemplates it," although, I conceded, "the language of the Resolution would not prevent it." "Speaking for my own Committee," I continued, "everyone I have heard has said that the last thing we want to do is to become involved in a land war in Asia; that our power is sea and air, and that this is what we hope will deter the Chinese Communists and the North Vietnamese from spreading the war. That is what is contemplated. . . ."[1]

In an exchange with the Senator from Wisconsin (Mr. Nelson) I said: "I personally feel it would be very unwise under any circumstances to put a large land army on the Asian continent." I said also that I would "deplore" the landing of a large army on the Asian mainland.[2] A little later in the debate I added: "I have no doubt that the President will consult with Congress in case a major change in present policy becomes necessary."[3]

Other Senators also expressed the general expectation that the Resolution would help to prevent a large-scale war. The Senator from Georgia (Mr. Russell) said: "I am sure that all of us who intend to vote for the Joint Resolution pray that the adoption of the Resolution, and the action that may be taken pursuant to it, will achieve the same purpose and avoid any broadening of war, or any escalation of danger."[4]

The Senator from Idaho (Mr. Church) expressed his general understanding that it was not the President's purpose to expand the war.[5] Senator Keating of New York expressed his understanding that the Resolution was not a "blank check" for expanded hostilities to be undertaken without the consent of Congress.[6]

The Senator from Wisconsin (Mr. Nelson) offered an amendment to the Gulf of Tonkin Resolution which would have expressed the sense of Congress that the United States sought no extension of the war and would continue to attempt to avoid a direct military involvement. In my capacity as floor manager—and to my regret—I said that I could not accept the amendment but only because it would necessitate a conference with the House of Representatives, which would have delayed final adoption. I made it clear, however, that I thought that Senator Nelson's amendment was not contrary to the Resolution but an "enlargement" of it. I also expressed my belief that Senator Nelson's amendment was "an accurate reflection of what I believe is the President's policy, judging from his own statements. . . ."[7]

What the foregoing illustrates is that, in adopting the Gulf of Tonkin Resolution, Congress had no intention whatever of authorizing the commitment of the Armed Forces to full-scale war in Asia. The language of the Resolution, it is true, lends itself to that interpretation, but, as the Executive well knew, that unfortunate language was accepted only in response to its urgent pleadings and assurances that the Administration had no intention whatever of plunging into an Asian land war.

Those expectations were by no means without foundation. The country, it will be recalled, was engaged in an election campaign in which President Johnson repeatedly expressed his determination not to involve the United States in a large-scale war in Asia. To cite just a few of the many Presidential statements to that effect:

On August 12, 1964, the President said in New York:

"Some others are eager to enlarge the conflict. They call upon us to supply American boys to do the job that Asian boys should do. They ask us to take reckless action which might risk the lives of millions and engulf much of Asia and certainly threaten the peace of the entire world. Moreover, such action would offer no solution at all to the real problem of Vietnam."

In a speech in Texas on August 29, the President said:

"I have had advice to load our planes with bombs and to drop them on certain areas that I think would enlarge the war and escalate the war, and result in our committing a good many American boys to fighting a war that I think out to be fought by the boys of Asia to help protect their own land. And for that reason, I haven't chosen to enlarge the war."

And in Akron, Ohio, on October 21, he declared:

"We are not about to send American boys 9,000 or 10,000 miles away from home to do what Asian boys ought to be doing for themselves."

The Senate debate of August 6 and 7, 1964, shows clearly that, in adopting the Gulf of Tonkin Resolution, the Senate thought that it was acting to prevent a large-scale war, not to authorize one.

Mr. CASE. Mr. President, will the Senator from New York permit me to make a comment on that?

Mr. JAVITS. I would like to answer that.

Mr. CASE. I would like to comment on it.

Mr. MILLER. I would like the Senator from New York to answer my point, because some people are concerned about the scope of the SEATO Treaty, which is the supreme law of the land.

I would like to ask my colleague if there is not more to it than just the mere security of our troops; if there is not an additional ingredient in the form of some satisfaction of our commitments under our treaty obligations?

Mr. JAVITS. Mr. President, I shall be happy to answer all those questions. Then I shall be happy to yield to the Senator from New Jersey (Mr. CASE) to get his reaction, because I feel that he, being an able lawyer, can add to anything I will have to say.

First, my argument as a Senator, if the Senate adopts that argument by the vote, is that all that termination of the Gulf of Tonkin resolution will do will be to clear the books. So then we argue only about constitutional powers. The President's powers are powers——

Mr. MILLER. And treaty requirements.

Mr. JAVITS. Whatever the constitutional powers, my judgment is that when a Senator votes "yea" he is not accepting my personal judgment as to what power that leaves the President. That is a very important point. When a Senator votes "yea" all he is saying is that we now resort to the Constitution because we are going to take the Gulf of Tonkin resolution off the books.

So I am not asking any Senator necessarily to join me in my interpretation of the powers of the President. There may be arguments on that point. I want to make that clear. I am not saying that any Senator who votes "yea" adopts my argument, but only clears the decks for going back to the constitutional powers of the President, whatever they may be.

Mr. MILLER. I think the Senator has put that point extremely well.

Mr. JAVITS. I thank the Senator, because I have no design to wish anything on the Senate whatever. I gave my personal view that, considering the history of what power a President has to react as Commander in Chief, it would seem to me, after all these years, in the absence of a clear congressional direction, that the President has power to end the war and withdraw our troops with maximum security to them.

The Senator asks, what about our treaty commitments? Does the President also have the power to live up to our treaty commitments?

I would answer as follows: In my judgment—again, this is only my opinion—a President might have to react in fulfilling a treaty commitment or carrying out a treaty commitment, when it

[1] *Congressional Record*, 88th Cong., 2d Sess., Vol. 110, Pt. 14, Senate, Aug. 6, 1964, pp. 18408–4.
[2] *Ibid.*, pp. 18406–7.
[3] *Ibid.*, p. 18420.
[4] *Ibid.*, pp. 18410–11.
[5] *Ibid.*, pp. 18415–16.
[6] *Ibid.*, p. 18456.
[7] *Ibid.*, p. 18459. See also p. 18462.

comes up in such a way and such a context that the interest and security of the country do not permit him to invoke those "constitutional processes" which require Congress to act legislatively—through declaration of war, Tonkin Gulf resolution, or whatever it may be.

I would accept that, and I take specific account of it in the bill I have introduced. But, the SEATO Treaty does not really commit us to fighting in South Vietnam at all. And, where so much time has gone by, and where we no longer can say there is a problem of immediate reaction, there I would say the President does not have any such power alone, and I do not want to entrust to the President alone, at this stage, the power to make war in the carrying out of a treaty commitment.

If President Nixon feels that he needs the power to carry out a treaty commitment, then, in my judgment, if we terminate Gulf of Tonkin, he should turn to us and say, "My friends, I agree with you about taking the blank check off the books, but I need a check for $100, and this is why," he would give us the specifics on a resolution that he wanted. He would say, "I need it immediately," or "I need it within 10 days," or "I need it within 2 days." That is perfectly all right. It would be our duty, in my judgment, to strain to meet his timetable in deciding whether we do or do not wish to give him what he wants.

There is also a doctrine in the law with respect to the continuance of a given situation and the fact that implications may be drawn from that unless they are cut off by Congress, and that might apply in some alleviation of the doctrine I have stated as to what the President's continuing power is. But I have stated it in its basic sense, and I hope very much that it will never be necessary for Congress to order the President, any more than it will be for the President to order Congress.

I point out to the Senator that this interpretation is my own. It is completely consistent with the history of the U.S. treaty commitments since the war; in every case we have conditioned the action which we were ready to take—that goes for NATO and all of them—as being subject to our constitutional processes. That means whatever power the Constitution gives the President and whatever the Constitution gives the Congress.

Mr. CASE and Mr. MILLER addressed the Chair.

Mr. MILLER. I just want to ask a question to clarify one thing the Senator said.

Mr. JAVITS. Surely.

Mr. MILLER. I believe the Senator based his opinion, to a certain degree, on the premise of the time involved.

Mr. JAVITS. Yes. In the context of my exchange with Senator Ellender about repulsing an attack.

Mr. MILLER. If that is so, what the Senator is really saying, I think, is that there is a time limit on a treaty. And if that is so, why should we not repeal the SEATO Treaty?

Mr. JAVITS. There is no time limit on a treaty except the limit to which we have agreed in the treaty. The only time limit I see—and it is a factor; not the only factor, but a factor—is a time limit on when the President can proceed without Congress.

I simply do not think that after 5 years of war, a President can say, "I am still reacting to something, which I have to do because otherwise America's obligation under a treaty will be invalidated, and our Nation will be embarrassed."

That is all I am saying.

I yield to the Senator from New Jersey.

Mr. CASE. Mr. President, I appreciate the Senator's indulgence. I really only want, I think, to underscore and perhaps state a little differently, or maybe only to repeat, what he has said, and make the distinction between the Nation's obligation, either under a treaty or under a condition, and who may put the country in motion.

I think the Senator, if I may say so, has confused those two things. We may have an obligation as a nation under a treaty or under a state of facts which we have brought into existence, whereby, in common morality, we ought not to leave people in the lurch when we have brought them along with us on our side in war or other action. But that is not the same as saying that the President has the right to take action in response to that obligation without the consent of Congress, or in opposition to its will.

That is the distinction that I think ought to be kept in mind here. The Senator from New York is absolutely right. I think in all these matters the only really sane solution is cooperative action between the President and Congress; and for Members of the Senate to insist that the President has exclusive authority in this area, I think, is to misinterpret not only the intention of the Founding Fathers, but also the rightness of the democratic process in a democratic nation.

Mr. MILLER. Will the Senator from New York yield further?

Mr. JAVITS. Yes.

Mr. MILLER. I appreciate very much what the Senator from New Jersey has said. Let me see if I can summarize it this way: He is saying that, with the repeal of this resolution and looking to the constitutional powers of the President, it is expected that the President would withdraw in an appropriate way, taking into consideration not only the security of our troops, but also our treaty commitments; and that if Congress does not think that the way the President is handling this withdrawal is proper, in line with the security of our troops and in line with the Nation's commitment under its treaty, then Congress can resort to the power of the purse.

Mr. CASE. May I respond? I do not necessarily disagree with what the Senator from New York has said about the condition that we are left in after this, or that all the President has the right to do is to withdraw. I think that decision, so far as this Nation is concerned, has not yet been made, and that when it is made, it ought to be made so as to have the best result for both the President and Congress.

I think all we have to say here is that whatever, if any, sanction to the use by the President of the military is involved is based upon this resolution. We are eliminating that, and, whatever encumbrance or whatever cloud it may be upon the situation, we are removing that cloud so that we can move on.

Frankly, I do not think it is necessary for us to take this action. If we want to take affirmative action as a Congress, we can take it, and it will supersede this resolution. I do not think there is any question about that. But I think it is a good idea, since the matter has been raised, to put this away.

I agree so much with what the Senator from Iowa has said and with what the Senator from New York has said about this whole problem that I hesitated to intervene here, and yet I did want to emphasize the distinction which I think the Senator from New York has already made.

Mr. JAVITS. I thank my colleague. I would only add, with reference to Senator MILLER'S question that Congress could act through its appropriation power. But, it could also act through the exercise of its substantive "policy powers" with respect to warmaking. These are clearly spelled out in article I, section 8 of the Constitution.

Mr. ELLENDER. Mr. President, will the Senator yield for one question?

Mr. JAVITS. Yes.

Mr. ELLENDER. As the Senator knows, the President envisions Vietnamization and, after American fighting troops are removed, he proposes to permit our bombers and a lot of our soldiers to remain there to help South Vietnam logistically. Can Congress stop that, or, if this resolution is——

Mr. JAVITS. Off the books?

Mr. ELLENDER. Off the books, will the President have to come to Congress in order to obtain permission to permit the logistics to go on with our forces and our bombers, to sustain further Vietnamization?

Mr. JAVITS. I think, as to logistics, we definitely have that under the foreign aid programs. He must come to us in the absence of law or security for our troops. And, in the absence of law or security for our troops he has no inherent constitutional power, in my judgment, to engage the Armed Forces of the United States, including its Air Force, in a supporting role.

Mr. ELLENDER. From what the Senator said a while ago, this means, I assume, complete withdrawal of all our troops?

Mr. JAVITS. Yes, that is what we are talking about. Troops as fighting men. As regular MAAG trainers, and so forth—that is something else. But that too requires congressional authorization.

Mr. ELLENDER. That means we have to leave South Vietnam without carrying out what the President desires to do now, which is to help the South Vietnamese from a logistic standpoint?

Mr. JAVITS. In my opinion, he should seek to join the authority of Congress with his own for those moves.

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

Mr. JAVITS. I yield.

Mr. MATHIAS. Mr. President, I just want to thank the Senator from New York for his very lucid and helpful exposition of the basic issues here.

Let me say further that I think the Senator from New York and the Senator from New Jersey—and, really, everyone who has spoken here today, I hope myself included—have issued a call to unity. We have issued a call to bring together all the forces of the Government, and, indeed, a call for the unity of the American people on this issue; and I hope that that call will be heard far beyond the Senate Chamber today.

Mr. JAVITS. I thank my colleague, and I thoroughly agree with him.

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

Mr. JAVITS. I yield.

Mr. FULBRIGHT. I would like to join in what the Senator from Maryland says. I have no illusions that Congress will take over this matter itself, and run it. All of these efforts, from way back, and certainly including Cooper-Church and others, are persuasive in nature—that is, it is the vehicle by which Congress expresses its best collective judgment on the very important matters—and that is the objective of it. I agree with the Senator in that respect.

Mr. JAVITS. I should like to join with Senator FULBRIGHT and Senator MATHIAS and others who have said that this is really an appeal to unity through clearing the books of anything which might give anybody an idea that they have a legal right beyond the Constitution. The Constitution presumes a working harmony between the President and Congress in many things, certainly in respect of war, I hope very much that we will be able to reach this as regards phasing out of Vietnam.

Several Senators addressed the Chair.

Mr. JAVITS. Mr. President, I yield to the Senator from Kentucky (Mr. COOPER).

Mr. COOPER. Mr. President, I have listened with great interest to the speech of the Senator from New York. As always, it was lucid and informed. He understands the constitutional questions involved.

For several years I have been studying the security treaties to which the United States is a party. With one or two exceptions, all provide that if aggression is committed against a signatory of the treaty, the signatories shall take action in accordance with their constitutional processes. During the debates on the SEATO Treaty, the Mutual Defense Treaty with Korea, and other security treaties, the question was asked again and again: What is the "constitutional process"? Secretary Dulles answered during the committee hearing on the SEATO Treaty that the "constitutional process" required joint action of Congress and the Executive, except in emergency situations.

I have believed, as Senator Ellender does, that President Johnson, in submitting the Tonkin Gulf resolution, asked the Congress to exercise the constitutional process in accord with article IV(1) of the SEATO Treaty. He went further than we expected, but the Tonkin Gulf resolution provided large authority to him.

If this resolution is repealed, what will be the base of the President's power? Certainly, he would not have power or authority under the Gulf of Tonkin resolution or SEATO, except by approval of the Congress.

In my view, his authority will reside only in his constitutional power to defend our Armed Forces. Who will interpret that? The President will interpret it. I think it is our duty to express, as we did in the recent debate and action on the Church-Cooper amendment and on others, what we believe are the limits of the Power of the President under his constitutional authority to protect the troops.

These are gray areas, difficult and perhaps impossible to define.

I must say that I agree wholeheartedly with the Senator from New York that, in such a situation as Vietnam, it is a matter of accommodation between the President and the Congress.

Mr. JAVITS. I thank the Senator.

Mr. President, I yield the floor.

Mr. COOPER. Mr. President, I am glad that this issue can be voted on as a concurrent resolution as reported by the Senate Foreign Relations Committee. Section 3 of the Tonkin Gulf resolution prescribes a concurrent resolution of the Congress as one means of repeal. I am pleased that the initiative of Senator MATHIAS of Maryland can be recognized as he did propose repeal and introduced a resolution for that purpose. He was joined by Senator MANSFIELD. Senators JAVITS and PELL also introduced a resolution calling for the repeal of the Tonkin Bay resolution, and they deserve commendation for their early initiative.

Nevertheless, the issue was before us when the Senator from Kansas (Senator DOLE), called for repeal, and I was glad to support him.

I recognize the deep interest that the chairman of the Senate Foreign Relations Committee, Senator FULBRIGHT, has had in this issue. As he has emphasized, he has sought a full discussion of the constitutional powers of the President and the Senate in warmaking decisions. I agree with him that the authority of the Congress has suffered erosion during this century and, without a doubt, the assumption of power by the Executive has played a part in this role. However, my study of the actions taken by the Executive has led me to conclude that in every instance the Congress has approved in advance action by the President or has acquiesced in the action that had been taken by the Executive.

There are different views concerning the basis upon which the Tonkin Bay resolution rests.

I am sure that few, if any, Members of the Congress foresaw that the United States would become involved in a great war in Vietnam, the third largest in our history excepting the Civil War.

Nevertheless, the record indicates that President Johnson was acting for authority based upon the SEATO Treaty as well as seeking prior approval of the exercise of his constitutional authority to protect American forces. His message to the Congress on August 5, referred to the Southeast Asia Collective Defense Treaty several times, and specifically stated:

> I recommend a resolution expressing the support of the Congress for all necessary action to protect our Armed Forces and to assist nations covered by the SEATO Treaty. At the same time, I assure the Congress that we shall continue readily to explore any avenues of political solution that will effectively guarantee the removal of Communist subversion and the preservation of the independence of the nations of the area.
>
> The resolution could well be based upon similar resolutions enacted by the Congress in the past—to meet the threat to Formosa in 1955, to meet the threat to the Middle East in 1957, and to meet the threat in Cuba in 1962. It could state in the simplest terms the resolve and support of the Congress for action to deal appropriately with attacks against our Armed Forces and to defend freedom and preserve peace in southeast Asia in accordance with the obligations of the United States under the Southeast Asia Treaty. I urge the Congress to enact such a resolution promptly and thus to give convincing evidence to the aggressive Communist nations, and to the world as a whole, that our policy in southeast Asia will be carried forward—and that the peace and security of the area will be preserved.

The report of the Senate Foreign Relations Committee under the title, "Scope of the Resolution," at page 8, makes the following comment:

> The phrasing in section 2, "in accordance with its obligations under the Southeast Asia Collective Defense Treaty," comprehends the understanding in that treaty that the U.S. response in the context of article IV(1) is confined to Communist aggression. It should also be pointed out that U.S. assistance, as comprehended by section 2, will be furnished only on request and only to a signatory or a state covered by the protocol to the SEATO Treaty. The protocol states are Laos, Cambodia, and South Vietnam.

Article IV(1) of the SEATO Treaty provides as follows:

> Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations.

While the term "constitutional processes" is not defined in the treaty, Secretary of State Dulles, under questioning by the committee a sto his interpretation of the words "constitutional processes" stated that "the normal process would be to act through Congress if it were in session, and if not in session to call Congress."

The report of the Foreign Relations Committee concerning the SEATO Treaty describes "the constitutional processes" referred to in the treaty, as follows:

> 15. CONSTITUTIONAL PROCESSES
>
> In the course of the hearings on January 13, the committee gave consideration to a suggestion by one of the witnesses that a reservation be attached to the treaty which would prohibit the use of United States ground, air, or naval forces in any defense action unless Congress, by a declaration of

war, consented to their use against Communist aggression. This proposal led to a searching discussion in executive session. It was finally rejected as throwing open the entire controversial topic of the relative orbit of power between the executive and the legislative branches. It had been for this very reason, as noted above, that the executive branch adopted the "constitutional processes" formula. When pressed for an indication of what the phrase comported, Mr. Dulles assured the committee that those words were used with the understanding that the President would come to Congress in case of any threat of danger "unless the emergency were so great that prompt action was necessary to save a vital interest of the United States." Except in that event "the normal process would be to act through Congress if it were in session, and if not in session to call Congress."

The committee ultimately resolved that it would serve no useful purpose to seek to develop the meaning of "constitutional processes" beyond this statement of Mr. Dulles. In that connection, it is recalled that the committee, referring to the use of the same phrase in the North Atlantic Treaty, observed in its report:

"The treaty in no way affects the basic division of authority between the President and the Congress as defined in the Constitution. In no way does it alter the constitutional relationship between them. In particular, it does not increase, decrease, or change the power of the President as Commander in Chief of the Armed Forces or impair the full authority of Congress to declare war" (Ex. Rept. No. 8, 81st Cong., 1st sess.).

In his prepared statement before the Foreign Relations Committee under the heading, "Purpose of the Resolution," found at page 5 of the committee hearings, Secretary of State Rusk made reference to the SEATO Treaty in the following terms:

But in the face of the heightened aggression of the Communist side, exemplified by these latest North Vietnamese attacks, it has seemed clearly wise to seek in the most emphatic form a declaration of Congressional support both for the defense of our Armed Forces against similar attacks and for the carrying forward of whatever steps may become necessary to assist the free nations covered by the Southeast Asia Treaty.

The debate in the Senate on the Tonkin Gulf resolution supports the proposition that the resolution was based in part on a decision to protect the Armed Forces, and in part as appropriate action under article IV of the SEATO Treaty.

I voted for the resolution and, like others, I expressed my hope in the debate that we would not become engaged in a new war in Vietnam. I knew that it was a possibility under the terms of the resolution, and so stated in the debate.

It is my view, as I stated on the floor at that time, that the approval of the resolution by the Congress was the exercise of the "constitutional processes" required in article IV of the SEATO Treaty.

I should note that I think it important that the Foreign Relations Committee and the Senate continue a review of our security treaties.

In connection with the SEATO Treaty which was advised and consented to by the Senate on February 1, 1955, I would like to make reference to the Senate debate that took place in January of 1954 concerning the Mutual Defense Treaty with Korea.

Article III of the Korean Treaty is similar to article IV (1) of SEATO in providing for implementation of the treaties by each party "in accordance with its constitutional processes."

On January 26, 1954, the Senate debated the meaning of the phrase, "constitutional processes."

In a colloquy I had with Senator Wiley, the floor manager, I stated that in my views

The phrase 'constitutional processes' must imply the powers of both President and Congress * * * We come back to the question: What are the constitutional powers of the President and Congress with respect to taking steps toward war? I believe that the distinguished Senator from Wisconsin has said that, in the absence of such circumstances as demanded the protection of the security of the United States, we would certainly expect that Congress would determine whether the United States should go to war.

Mr. Wiley: I believe that expresses very forcefully the position I take as to what the language means. * * *

Mr. President, because of the relevance of this debate to my views in this matter, I ask unanimous consent that the colloquy of January 26, 1954 be included in the RECORD at this point.

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

MUTUAL DEFENSE TREATY WITH KOREA

The Senate, as in Committee of the Whole, resumed consideration of the treaty, Executive A (33d Cong., 2d sess.), a Mutual Defense Treaty between the United States of America and the Republic of Korea, signed at Washington on October 1, 1953.

* * * * *

Mr. COOPER. I thank the Senator from Wisconsin for yielding.

The PRESIDING OFFICER. Is the Senator from Wisconsin yielding the floor, or yielding for a question?

Mr. WILEY. I yield for a question.

Mr. COOPER. I have been very much interested in the searching questions asked by the distinguished Senator from Mississippi (Mr. STENNIS). I should like to say, first, that I do not believe that the wording of the United Nations Charter has relevancy in this situation.

I ask the Senator from Wisconsin if it is not true that the United Nations, contrary to popular belief held by some, has no power whatsoever to commit this Nation to war.

Mr. WILEY. That is correct.

Mr. COOPER. There is only one situation in which the United Nations might have any power to commit our troops. If under the Charter nations have made available to the Security Council of the United Nations fixed and permanent military forces, consenting in advance for their use to maintain peace, there would be authority to commit the forces. As this has not been done by the United States or any other nation, I say and I am sure the Senator from Wisconsin will agree—that there is absolutely no power in the United Nations, to commit this Nation to war.

Mr. WILEY. I agree.

Mr. COOPER. The Senator from Mississippi has raised the most searching question that can be addressed to this treaty. As the Senator from Wisconsin has said, it is the age-old constitutional question, "Under what circumstances can the President of the United States take action which, as a practical matter, may have the effect of committing this Nation to war without a congressional declaration of war?"

The phrase, "constitutional processes" must imply the powers of both President and Congress. Under the Constitution the President of the United States can assert under certain circumstances—such as our troops being attacked or our physical area being invaded—his consitutional power as Commander in Chief to take action for the security of the country. Such action could, of course, lead to war.

The important language in this article, it seems to me, in addition to the phrase "constitutional processes," which is difficult of interpretation, is the language defining the area, and conditions in which the United States would be morally committed to take some action under its constitutional processes.

I believe the distinguished Senator from Wisconsin has said that he did not intend to make a statement which would interpret in any way the words "constitutional processes" to exclude the constitutional power of the President of the United States as Commander in Chief to act, under certain circumstances which he might think proper, to protect the security of the United States. Is that correct?

Mr. WILEY. Yes, of course. Again we get into a field which has been the subject of discussion for some 165 years, as I have said. However, I believe that with the understanding which has been appended as a result of the suggestion of the Senator from Georgia [Mr. GEORGE] there can be no question as to what the meaning of the treaty is. As I have stated, there is nothing in the treaty which would delimit the constitutional power of either Congress or the President.

Mr. COOPER. We seem simply to speak in a circle and come back to where we started. What does "constitutional processes" mean?

Mr. WILEY. It is not a Bricker amendment, if that is what the Senator has in mind.

Mr. COOPER. We come back to the question: What are the constitutional powers of the President and Congress with respect to taking steps toward war? I believe that the distinguished Senator from Wisconsin has said that, in the absence of such circumstances as demanded the protection of the security of the United States, we would certainly expect that Congress would determine whether the United States should go to war.

Mr. WILEY. I believe that expresses very forcefully the position I take as to what the language means. However, I cannot help but say that, as we discuss the treaty, which relates to a small country, a mere dot on the perimeter of the earth, so to speak, we cannot close our eyes to the fact that in the day in which we are living—and I say this very thoughtfully—I am sure if we could foresee any danger of a third world conflict which would make it advisable for the President not to convene Congress in Washington, where we could be immediately blown out of existence by a bomb, but himself to take the steps which were necessary under the circumstances, Congress should provide the machinery to make it possible to vote, if necessary, by television or in any other way, so that that which happened to Hiroshima could not happen to Washington.

The story has been told that the Commander in Chief was consulted on the wisdom of dropping the A-bomb on Tokyo, and he said, "If we do so, we will kill the Emperor, and kill all the high government officials in Japan. We cannot do that to Japan, because we need the Emperor, around whom the people can gather when we take over."

There will be nothing like that in a third world war. The object will be to paralyze at one time the entire Government—Congress, the Executive, and the courts. Consequently, there should be adequate machinery, available whereby Congress could vote by long distance on the subject.

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

Mr. WILEY. I yield further to the Senator from Kentucky.

Mr. COOPER. I thank the Senator from Wisconsin. I know I share the hope of every Senator that there will be no resumption of the Korean war, but if there should be, there will be opportunity for Congress to take proper constitutional action.

But we cannot take away from the President his constitutional powers to protect our security, and I do not believe we ought to give to this treaty any interpretation which would permit any assumption that he would not act to protect our forces or to meet further aggression in Korea.

Mr. COOPER. Mr. President, with respect to this action the Senate is taking today, I think it may be helpful to have certain relevant documents bearing on this subject included in the RECORD at one place.

Mr. President, I ask unanimous consent that the following documents and statements be included in the RECORD at this point:

First. President Eisenhower's message to Congress on the SEATO Treaty.

Second. Testimony of Secretary Dulles before the Foreign Relations Committee in connection with the SEATO Treaty.

Third. Excerpts from the Report of the Foreign Relations Committee on the SEATO Treaty.

Fourth. President Johnson's message to Congress on the Tonkin Gulf resolution.

Fifth. Excerpts from the Report of the Foreign Relations Committee on the Tonkin Gulf resolution.

Sixth. Statement by Secretary of State Rusk before the joint hearing of the Senate Foreign Relations Committee and the Senate Armed Services Committee in connection with the Tonkin Gulf resolution.

Seventh. Statement by Secretary of Defense McNamara before the same committees in connection with the Tonkin Gulf resolution.

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

[1. President Eisenhower's Message to Congress on the SEATO Treaty]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING THE SOUTHEAST ASIA COLLECTIVE DEFENSE TREATY AND THE PROTOCOL THERETO, BOTH SIGNED AT MANILA ON SEPTEMBER 8, 1954

THE WHITE HOUSE,
November 10, 1954

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a copy of the Southeast Asia Collective Defense Treaty and the protocol thereto, both signed at Manila on September 8, 1954.

I transmit also for the information of the Senate a copy of a declaration known as the Pacific Charter, which was drawn up at Manila and signed on that same date. The charter proclaims the dedication of the signatory governments to the ideals of self-determination, self-government, and independence. It is a declaration of principles and does not require the advice and consent of the Senate.

There is further transmitted for the information of the Senate the report made to me by the Secretary of State regarding the Southeast Asia Collective Defense Treaty and the protocol thereto. I concur in the recommendation of the Secretary that the "unanimous agreement" required by article IV, paragraph 1, for the designation of states or territories, by article VII for the invitation to states to accede to the treaty, and by article VIII for a change in the treaty area is to be understood in each instance as requiring the advice and consent of the Senate.

The treaty is designed to promote security and peace in Southeast Asia and the Southwestern Pacific by detering Communist and other aggression in that area. It is a treaty for defense against both open armed attack and internal subversion. Included in the treaty is an understanding on behalf of the United States that the only armed attack in the treaty area which the United States would regard as necessarily dangerous to our peace and security would be a Communist armed attack. The treaty calls for economic cooperation to enable the free countries of this area to gain strength and vigor not only militarily but also socially and economically.

The Southeast Asia Collective Defense Treaty complements our other security treaties in the Pacific and constitutes an important link in the collective security of the free nations of Southeast Asia and the Pacific.

I recommend that the Senate give early and favorable consideration to the treaty and protocol submited herewith, and advise and consent to the ratification thereof subject to the understanding of the United States contained in the treaty.

Enclosures: (1) Report of the Secretary of State, (2) copy of the treaty, (3) copy of the protocol, (4) copy of the Pacific Charter.)

DEPARTMENT OF STATE,
Washington, November 2, 1954.

The PRESIDENT,
The White House:

I have the honor to submit to you, with a view to the transmission thereof to the Senate for its advice and consent to ratification, a copy of the Southeast Asia Collective Defense Treaty and the protocol thereto, both signed at Manila September 8, 1954. There is also transmitted, for the information of the Senate, a copy of the Pacific Charter signed and proclaimed at Manila on the same date. The charter is a declaration of principles and does not require the advice and consent of the Senate.

At your request Senator H. Alexander Smith and Senator Michael J. Mansfield of the Senate Foreign Relations Committee accompanied me to the Manila Conference as plenipotentiary delegates and signed, with me, the treaty, the protocol, and the Pacific Charter. I am greatly indebted to the contributions which they made to the successful negotiation of these instruments. This treaty is one in which the Executive and the Senate, through both political parties, cooperated all along the way.

The purpose of the Southeast Asia Collective Defense Treaty is the creation of unity for security and peace in Southeast Asia and the Southwestern Pacific. Eight nations—Australia, France, New Zealand, Pakistan, the Republic of the Philippines, Thailand, the United Kingdom, and the United States—participated in the negotiation as free and equal partners. It is a treaty for collective defense against both open armed attack and internal subversion. Although the United States has no direct territorial interest in Southeast Asia, we have much in common with the people and governments of this area and are united in the face of a common danger that stems from international communism.

As I stated in my address to the Nation on September 15, the unity envisaged by the treaty is something that the United States has long sought. In 1951, on behalf of the preceding administration, I negotiated security treaties with Australia and New Zealand, with the Republic of the Philippines, and with Japan. Since then a mutual defense treaty with Korea has also been concluded, subject to exchange of instruments of ratification. Each of these treaties has a continuing role in the development of a Pacific security system, and each contemplated the development of a more comprehensive system of regional security in the Pacific area.

Like the earlier treaties, the Manila Pact is in full conformity with the purposes and principles set forth in the Charter of the United Nations and is based on article 51, which recognizes the inherent right of individual or collective self-defense. It is directed against no government, against no nation, and against no peoples.

The treaty consists of a preamble and 11 articles. The preamble sets forth the spirit and purposes of the treaty. It recognizes the sovereign equality of all the parties and reiterates their faith in the Charter of the United Nations and their desire to live in peace with all peoples and all governments. Reaffirming the principle of equal rights and self-determination of peoples, it declares the intention of the parties to strive by every peaceful means to promote self-government and to secure the independence of those countries whose people desire it and are able to undertake its responsibilities. Declaring publicly and formally their sense of unity, the parties give warning to any potential aggressor that they stand together in the area. The preamble expresses also the fundamental purpose of the treaty, i.e., the further coordination of efforts for collective defense for the preservation of peace and security.

Article I contains undertakings similar to those in comparable articles of other security treaties. By its terms and parties reaffirm their solemn obligations under the Charter of the United Nations to settle by peaceful means any international disputes in which they may be involved, and to refrain in their international relations from the threat or use of force inconsistent with the purposes of the United Nations. All of the parties to the treaty are members of the United Nations.

Article II incorporates in the treaty the principle of the Vandenberg resolution (S. Res. 239, 80th Cong.), which requires the regional and collective security arrangements joined in by the United States be based on continuous self-help and mutual aid. The parties pledge themselves by such means not only to maintain and develop their individual and collective capacity to resist armed attack but also to prevent and counter subversive activities directed from without against their territorial integrity and political stability. The treaty thus recognizes the danger of subversion and indirect aggression, which as we are keenly aware have been principal tools of international communism.

Article III recognizes the importance of free institutions and sound economies in achieving the objectives of peace and security. It is based on the realization that the opportunities of communism will diminish if through economic cooperation the free nations are able to develop their internal stability. The parties agree to cooperate in promoting economic progress and social well-being. This article does not commit the United States to any grant program. However, as I stated in my address of September 15, Congress had the vision to see this year that there might be special needs in Southeast Asia. By the Mutual Security Act, Congress has already provided certain funds which may be used to assist the free governments of Southeast Asia.

The article builds no economic walls against countries or territories not parties to the treaty. While a special relationship ought to prevail as between those countries which together assume serious commitments, the treaty countries are fully aware of the importance from an economic standpoint of such nations as Japan, Indonesia, Burma,

Ceylon, India, Formosa, and other areas in the Far East and South Asia area. Article III does not preclude our continued economic cooperation with theseand other countries whose economic welfare is deemed important to the stability of the treaty area as well as to our own well-being.

Article IV contains some of the most important provisions of the treaty. It sets forth any measures by which the parties agree to take action against armed aggression and against the danger of subversion and indirect aggression.

Under paragraph 1 of that article each of the parties recognizes that "aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes." That language is based upon the Monroe Doctrine principle and follows the pattern of other United States security treaties in the Pacific. Each party recognizes in article IV, paragraph 1, that the armed attack referred to therein would be dangerous to its own peace and safety.

In the case of the United States, only a Communist armed attack can bring that treaty provision into operation. The understanding of the United States in this respect is embodied in the treaty itself. It reads as follows:

"The United States of America in executing the present Treaty does so with the understandnig that its recognition of the effect of aggression and armed attack and its agreement with reference thereto in Article IV, paragraph 1, apply only to communist aggression but affirms that in the event of other aggression or armed attack it will consult under the provisions of Article IV, paragraph 2."

This understanding reflects the special position of the United States as the only one of the signatories which does not have any territory in the treaty area. For the other signatories the treaty deals with any and all acts of aggression which might disturb the peace of the area. For the United States, however, it is expressly stipulated that the only armed attack which the United States would regard as necessarily dangerous to our peace and security would be a Communist armed attack. Recognition that Communist armed aggression in Southeast Asia would in fact endanger the peace and security of the United States, and call for counteraction by the United States, is based on the realization that the spread of international communism poses a threat to the United States as it does to the entire free world.

The language of paragraph 1 also provides for designation, by unanimous agreement, of other states or territories an armed attack against which will result in bringing certain of the treaty provisions into operation. I recommend that you inform the Senate that this provision is to be interpreted as requiring the advice and consent of the United States Senate to any agreement making such a designation.

The agreement of each of the parties to act to meet the common danger "in accordance with its constitutional processes" leaves to the judgment of each country the type of action to be taken in the event an armed attack occurs. There is, of course, a wide range of defensive measures which might be appropriate depending upon the circumstances. Any action which the United States might take would, of course, be in accordance with its constitutional processes.

Provision is made in the final sentence of the paragraph for reporting the measures taken against armed aggression to the Security Council of the United Nations in accordance with the obligation of the parties under article 51 of the United Nations Charter.

The danger from subversion and indirect aggression is dealt with in paragraph 2 of article IV, which meets this difficult problem more explicitly than any other security treaty we have made. It provides for immediate consultation by the parties whenever any party believes that the integrity of the treaty area is threatened by other than armed attack. The threat may be to the territorial inviolability or integrity, or to the sovereignty or political independence of any party in the treaty area or any other state or territory to which paragraph 1 of the article may from time to time apply. The paragraph contains no obligation beyond consultation, but the purpose of consultation is to agree on measures to be taken for the common defense. In its understanding with reference to article IV, paragraph 1, the United States affirms that in the event of any aggression or armed attack other than Communist aggression it will observe the consultation provisions of article IV, paragraph 2.

Paragraph 3 affirms the principle of equal rights and self-determination of peoples proclaimed by the treaty signatories in the Pacific Charter. It states the understanding of the parties that, except at the invitation or consent of the government concerned, no action shall be taken on the territory of any state designated under paragraph 1 or on any territory so designated.

To facilitate implementation of the treaty, article V establishes a Council, on which each party is to be represented. The Council will provide for consultation with regard to military and other planning as the changing situation in the treaty area may require.

No material changes in the military planning of the United States will be required by our participation in the Council, At present, United States plans call for maintaining at all times powerful naval and air forces in the Western Pacific capable of striking at any aggressor by means and at places of our choosing. As I explained at the Manila Conference, the responsibilities of the United States are so vast and farflung that we believe we would serve best not by earmarking forces for particular areas of the Far East but by developing the deterrent of mobile striking power plus strategically placed reserves. The Conference accepted that viewpoint, recognizing that the deterrent power we thus create can protect many as effectively as it protects one. However, other treaty members may deem it desirable to make their contribution toward strengthening the defense of the area by specific force commitments for that purpose.

Article VI makes clear that the obligations of the parties under the treaty do not affect in any way their obligations under the United Nations Charter. It recognizes the primary responsibility of the United Nations in maintaining international peace and security. Each party declares that it has no existing international obligations in conflict with the treaty and undertakes not to enter into any international engagements in conflict with it.

Article VII takes into account that not all countries whose interests now or in the future may be bound up with the Southeast Asia Collective Defense Treaty are in a position to become parties at this time. It accordingly provides that the parties, by unanimous agreement, may invite any other state in a position to further the objectives of the treaty and to contribute to the security of the area, to accede to the treaty at a later date. I recommend that this article be interpreted as requiring the advice and consent of the Senate for the United States to join in the "unanimous agreement" required for the invitation of new parties.

Article VIII defines the "treaty area" as the general area of Southeast Asia, including the entire territories of the Asian parties, and the general area of the Southwest Pacific not including the Pacific area north of 21 degrees 30 minutes north latitude. Provision is made for amendment of the treaty area by unanimous agreement. On the part of the United States, I recommend that Senate advice and consent be required for such agreement.

Article IX assigns to the Republic of the Philippines the customary duties as depositary of the treaty. Paragraph 2 provides that the treaty shall be ratified and its provisions carried out by the parties in accordance with their respective constitutional processes. The association of the United States in collective arrangements "by constitutional process" was recommended by the Vandenberg resolution and has been the basis for all of our security treaties.

Paragraph 3 or article IX provides that deposit of ratifications by a majority of the signatories shall bring the treaty into force between the states which have ratified it. With respect to each other state it shall come into force on the date of deposit of its ratification.

According to article X the treaty has indefinite duration, but any party may cease to be a party 1 year after its notice of denunciation has been given. It is hoped that the cooperation for peace and security which is the objective of this treaty will be permanent. However, since the conditions in the treaty area are subject to fluctuation, a flexible provision in respect to duration seems desirable.

Article XI is a formal article regarding the authentic language texts of the treaty.

The protocol extends the benefits of articles III and IV to the States of Cambodia and Laos and the free territory under the jurisdiction of the State of Vietnam. The Indochina situation was considered by some of the treaty signatories as creating obstacles to these three countries becoming actual parties to the treaty at the present time. By designating them as states or territories for the purposes of article IV, the protocol assures that armed attack or indirect aggresion against Cambodia, Laos, or the territoy under Vietnamese jurisdiction will bring into operation the obligations of the parties under that article. It thus throws over those new nations a certain mantle of protection. The protocol also extends to those countries eligibility in respect of the economic measures, including technical assistance, contemplated by article III. It thus recognizes that economic progress and social well-being in these areas are essential to the economic welfare of the whole area and a vital force in combating the opportunities of communism.

In addition to the treaty and protocol, there was also drawn up and signed at the Manila Conference a declaration known as the Pacific Charter. The charter was the idea of President Magsaysay of the Republic of the Philippines, who emphasized the importance of making clear that the treaty signatories were seeking the welfare of the Asian peoples and were not promoting "colonialism." As I said in my opening address to the Conference, one of communism's most effective weapons is to pretend that the Western Powers are seeking to impose colonialism on the Asian people. I said then that we must make abundantly clear our intention to invigorate independence.

The Pacific Charter proclaims certain basic principles in relation to the right of peoples to self-determination, self-government, and independence. It dedicates all the signatories to uphold these principles for all countries whose people desire it and are able to undertake its responsibilities. In the Pacific Charter the West and the East have joined in a pledge of fellowship that supports and invigorates the basic principles which underlie the Southeast Asia Collective Defense Treaty and protocol.

In view of the importance of the Southeast Asia Collective Defense Treaty and protocol as a deterrent to Communist and other aggression and as a bulwark in the mainte-

nance of peace and security in the Pacific area, it is hoped that the treaty including the understanding of the United States contained therein, together with the protocol, will be given early and favorable consideration by the Senate.

Respectfully submitted.

JOHN FOSTER DULLES.

(Enclosures: (1) Southeast Asia Collective Defense Treaty, (2) protocol, (3) Pacific Charter.)

[2. Testimony of Secretary Dulles before the Foreign Relations Committee in connection with the SEATO Treaty]

STATEMENT OF HON. JOHN FOSTER DULLES, SECRETARY OF STATE, ACCOMPANIED BY ADM. ARTHUR C. DAVIS, DIRECTOR, OFFICE OF FOREIGN MILITARY AFFAIRS, OFFICE, SECRETARY OF DEFENSE

Secretary DULLES. Mr. Chairman and members of the committee, let me first express, on behalf of President Eisenhower and myself, my appreciation of the promptness with which the committee has taken up this matter. The documents were transmitted only yesterday by the President to the Senate, and the fact that the committee is meeting the next morning to deal with the treaty is, perhaps, without precedent in Senate history. I believe that this expeditious handling of the matter is fully justified by its importance.

A SOLID COLLECTIVE-SECURITY SYSTEM

This treaty, Mr. Chairman, as you have indicated, represents a major further step in the evolution of our policy to try to create a solid collective-security system in the Western Pacific area. That is a well-established policy. It was the policy which existed under the preceding administration, and which has been carried on by the present administration.

When I went out to the Pacific area in 1950 to begin the negotiations which resulted in the Japanese Peace Treaty and a series of security treaties, the original hope had been that we could have a fairly broad collective security arrangement. As it happened, it was not possible to do that at that time, and we were content perforce with a series of treaties, the security treaty with Australia and New Zealand, our mutual security pact with the Philippines,, and a security treaty with Japan. But those treaties themselves indicated that we did not regard them as an end, but only as a beginning, because they referred to the fact that the treaties were made pending the development of a more comprehensive system of security in the Pacific area. Since then we have negotiated the treaty with Korea.

The present treaty with Southeast Asia is an element in that total picture which we have long wanted to create.

When President Eisenhower made his first notable address called "The Chance for Peace" on April 16, 1953, he then advocated "united action" for Southeast Asia. I pushed for that quite vigorously during the next year.

It turned out, naturally, that it was quite difficult to complete a Southeast Asia pact while the war in Indochina was still active. Nations, I think on the whole, like to go into these pacts on the theory that they are deterrents to war rather than involvements in a war. Furthermore, the issues of the war going on in Indochina were not entirely clear.

So, while the United States would have been willing to have made this pact earlier in the hope that it would exercise a helpful influence upon the negotiations at Geneva, it did not prove practical to do it until after the Geneva armistice agreements had been made.

NEED FOR THE SOUTHEAST ASIA COLLECTIVE DEFENSE PACT

The making of those armistice agreements at Geneva did not, of course, end the need for a pact. The need for the collective security pact is indeed quite evident as a result of many evidences of continuing aggressive tendencies on the part of the Communists.

To name only a few of these things, I could mention the fact that there exists on Chinese Communist soil a so-called "free Thai" movement, which is designed to subvert and overthrow the Government of Thailand. In Vietnam the military forces in the portion that has been conceded to the Communists have been almost doubled since the Geneva armistice.

In northern Laos, two provinces are largely dominated by the Communists who are in revolt against or do not accept the authority of the Government of Laos.

In Singapore there is continuing concern as to the activities being conducted by the Communists as against the large Chinese population of Malaya. Most of those Chinese are not themselves Communists, but they are the subject of very vigorous propaganda and subversive efforts being conducted by small elements of Chinese Communists who are extremely active at the present time in that area.

In the Province of Yunan, China, where there is no risk at all of any armed attack against China, there is nevertheless maintained a very substantial military force by the Red Chinese.

All of these facts, and others which I could adduce, indicate that there persists an aggressive intention on the part of the Chinese Communists which belies their protestations of a desire for peace.

Therefore, the need for this treaty exists irrespective of the Geneva armistice. That fact has been recognized by the nations who met in the early part of September at Manila to conclude the treaty which you are now considering.

APPRECIATION FOR SENATE COOPERATION

As I turn to that Manila conference, I want to express on behalf of the President and myself and the executive branch of Government, our great appreciation for the cooperation which was shown at that conference by the Senate through two distinguished members of your committee, Senator Alexander Smith and Senator Mansfield. They were members of the delegation; they played an active part in the negotiations and discussions at Manila; and with me, under the authority of the President, signed the treaty.

Senator Mansfield came to that conference directly from Indochina, where he had spent some little time, and he brought to the Manila conference an appraisal of the situation in Indochina which was of great value not only to the United States delegation but to the delegates of the other countries that were there.

MEMBERS OF THE TREATY

The members of this treaty are, in addition to the United States, the Philippines, Thailand, Pakistan, Australia, New Zealand, France, and the United Kingdom. We would have been glad if there had been more members, particularly Asian members, but the treaty is open ended in that respect. There is an invitation to other countries to join the treaty, of which we hope in due course they will avail themselves, with the concurrence of the present members, a prerequisite for bringing in new members.

Nevertheless, the present membership of the treaty is important, and I believe adequate to build a very substantial defense against the menace to which I have referred.

In my report to the President, which went up to the Senate yesterday and which you, with commendable speed, have already printed, I review in considerable detail the various provisions of the treaty, and I will not now attempt to duplicate what I there said.

DISTINCTIVE ASPECTS OF THE TREATY

There are, however, certain rather distinctive aspects of this treaty, as the chairman has pointed out, to which I would briefly allude.

Broadly speaking, the pattern of the treaty is similar to the other Pacific treaties which we have made, the Anzus Treaty, the Philippine Treaty, the Korean Treaty, and so forth. But there are differences.

The treaty area is defined not merely by the treaty itself, but by a protocol to the treaty which brings in Laos, Cambodia, and the free portion of Vietnam as treaty territory which, if attacked, would be under the protection of the treaty and which, we hope, the treaty will deter from being attacked.

Those nations themselves are not members of the Manila Pact. The reason is that the armistice provisions at Geneva at least raised a question in the minds of some of the parties to those agreements as to whether the Associated States could actually join such a pact. Nevertheless, those states welcomed the fact that the mantle of protection of the treaty was thrown around this area. This provision is one novel feature of the treaty.

A second novel feature of the treaty is the fact that more than any other of our security treaties it emphasizes the danger from subversion. It deals, of course, as other treaties have, and in the same formula, which I call the Monroe Doctrine formula, with an open armed attack, and we believe that what is said in that respect will constitute a deterrent against such an open armed attack.

MOBILE STRIKING POWER

I might say in this connection, departing somewhat from order of my presentation, that it is not the policy of the United States to attempt to deter attack in this area by building up a local force capable itself of defense against an all-out attack by the Chinese Communists if it should occur. We do not expect to duplicate in this area the pattern of the North Atlantic Treaty Organization and its significant standing forces. That would require a diversion and commitment of strength which we do not think is either practical or desirable or necessary from the standpoint of the United States.

We believe that our posture in that area should be one of having mobile striking power, and the ability to use that against the sources of aggression if it occurs. We believe that is more effective than if we tried to pin down American forces at the many points around the circumference of the Communist world in that area.

It may very well be that other countries of the area will want to dedicate particular forces for the protection of the area under this treaty. But we made clear at Manila that it was not the intention of the United States to build up a large local force including, for example, United States ground troops for that area, but that we rely upon the deterrent power of our mobile striking force.

PROVISION TO PREVENT AND COUNTER SUBVERSION

To go on now to the question of subversion, as I pointed out, we deal with that in this treaty more specifically than we have with any other treaty. We recognize the danger more clearly. I must admit that the mere fact of recognizing the danger does not mean that we automatically have found a way to meet the danger. Subversion in that area is a very difficult thing to combat. It is virulent, it is well organized, it is effectively prosecuted by trained persons, and the task of

meeting that threat will tax our resources and ingenuity to the utmost.

One reason why I am very anxious to have this treaty promptly considered by this committee is that I hope that it will be possible for us, perhaps even without awaiting the final coming in force of the treaty, to have a meeting of the signatories to the treaty, at which we will begin to think of ways and means that might be made available to combat this threat of subversion. This threat is most acute at the moment in Vietnam, but, as I indicated, there are threats of the same character as to Laos, Cambodia, Thailand, and Malaya; and Burma and Indonesia are not free from that danger.

Therefore, I think it is of the utmost importance that we should have an early meeting of the signatories in which we began to think of ways and means to meet this subversive threat which is recognized by the treaty as being a particular danger in this area.

ECONOMIC CLAUSE

The treaty has a brief economic clause which says that the parties will cooperate together in economic matters. It is clear, and I want to reaffirm here, that this is not meant to and does not engage the United States to any particular program of vast economic aid.

As I said at a press conference which I had the day before yesterday, the possibility of usefully spending vast sums of economic money in this area has not been demonstrated. It is quite different from the situation that existed in Europe where we had the European recovery plan. That was a question of rehabilitating, reestablishing a pre-existing industrial plant. People knew how to operate it and were well versed in industrial life, and the problem was to recreate something that had been destroyed.

In this part of the world the problem is to create something that is totally new, and I am inclined to think that while the problem certainly needs our very best thought, the finding of ways and means to help is the most important first thing. The problem needs to be tackled first from that standpoint rather than the standpoint of first appropriating vast sums of money and then trying to think later on how it can be spent with advantage.

TREATY DEALS SPECIFICALLY WITH COMMUNIST AGGRESSION

There is at the end of the treaty a clause of significance to the United States, and that is a declaration that the armed aggression which is referred to and which the United States declares would be dangerous to its own peace and security would be Communist aggression.

There was considerable discussion at the working group party at Manila which preceded the formal opening of the Conference, and at the Conference itself, as to whether the treaty, as a whole, should be exclusively directed against Communist aggression or whether it should deal with any form of aggression.

I pointed out at Manila that the United States was in a rather special position in that respect because of the fact that we alone of the treaty members did not have any territory of our own in the area that was involved. Therefore, our concern with the area was not primarily with interarea quarrels, but only if there should be Communist aggression.

In fact, we had advocated that the treaty should be limited to Communist aggression. But other countries were unwilling to do that; so the issue was resolved by the United States including in the treaty a declaration that, as far as it was concerned the open aggression which we would regard as dangerous to our peace and security would be Communist aggression.

This means that we are not similarly concerned with what might be local controversies in the area. We have agreed that if there should be local controversies in the area, we would join with others in consultation to see what should be done about them. But the provisions of article IV, paragraph 1, would only apply so far as the United States is concerned in the event of Communist aggression.

THE PACIFIC CHAPTER

As you suggest, Mr. Chairman, there will probably be other matters which the committee members will want to raise by way of question. I will conclude my opening statement by one other reference, and that is to the Pacific Chapter. That is a document which is not in the nature of a treaty, it is in the nature of a declaration which is important in that it expressed by joint action of so-called western colonial powers and the Asian powers, a common position with reference to self-determination and self-government by the peoples of Asia.

This document was suggested by President Magsaysay, an outstanding anti-Communist figure, a very noble figure, who exerted a profound and benign influence on the whole conference.

He thought that it would be useful for the Conference to make what he called a Pacific Charter declaration, affirming the intention of all the parties to this treaty to work for self-determination and self-government among the Asian peoples who wanted self-government and were capable of exercising its responsibilities.

The negotiation of that agreement involved considerable difficulty to reconcile the divergent points of view of the former, and to some extent, present, colonial powers and the Asian powers, and I think it was a notable achievement that agreement was reached, and that there was this declaration made in ringing terms which I think will go far to meet the Communist propaganda that the East and West cannot operate for freedom.

That document, by its psychological impact, may have as great a force for sustaining freedom in Asia as the treaty does itself. That document, as I say, is not one which requires any action by the Senate, because it is merely a declaration of policy, but it has been transmitted the Senate because I am confident that the Senate will be very happy that it was possible to make this declaration.

It was no problem for the United States to make it because we said similar things oftentimes before. It did involve certain problems for some of the western powers, and the fact that they and the Asian powers were able to agree is, I think, a very significant fact.

IMPORTANCE OF TREATY

So all together, Mr. Chairman, I believe that this treaty, coupled with the declaration of policy represented by the Pacific Charter, marks an important forward step in building security for freedom in the Pacific area.

I would not say that this represents the consummation of all our hopes. There are other steps which need to be taken. The area needs to be bound together more closely than it is now. All of that we are still working on. But I hope that this treaty will commend itself to your committee and to the Senate for prompt approval because it does represent, in my opinion, at least, one very major step in the evolution of a sound policy which the United States has had for that area for many years which, I think, should be permanent American policy, and which I think still has a possibility of future evolution for good.

Thank you.

The CHAIRMAN. Thank you, Mr. Secretary.

We will now proceed in the usual way. I will ask you a few questions, and then I will pursue the course that has heretofore been followed of permitting each member of the committee to ask you questions.

DIFFERENCE BETWEEN NATO AND SOUTHEAST ASIA TREATY

I have very few. What is the major difference between SEATO, as this has been called, and NATO? In other words, do you anticipate that SEATO will develop along the lines of NATO with a joint military force under a joint commander and joint headquarters, and so forth?

Secretary DULLES. There is a very sharp difference, which I think I suggested in my statement, between what we contemplated under the Manila Pact, and the North Atlantic Treaty.

NATO, of course, is the North Atlantic Treaty "Organization"; that is what the "O" stands for. That is not an inherent or necessary part of the treaty.

As a matter of fact, when the North Atlantic Treaty was before the Senate and the Senate consented to its ratification, there was at that time no serious thought of creating a North Atlantic Treaty Organization. That came as a later development.

In the case of the Manila Pact, we have tried to avoid the use of the word "SEATO." I did not use it in my presentation. It is not in the documents before us. We are trying to get away from that word because it implies a southeast Asia treaty organization comparable to the North Atlantic Treaty Organization. That organization is designed in the case of the North Atlantic Treaty to build up a defensive force on the Continent of Europe which itself would be sufficient to resist attack by the Red armies.

As I point out, that is not now the purpose under this treaty. We do not intend to dedicate any major elements of the United States Military Establishment to form an army of defense in this area. We rely primarily upon the deterrent of our mobile striking power. That we made clear to our associates in the treaty, and that is our policy.

It would involve, in the opinion of our military advisers—Admiral Davis is here and can confirm that—it would involve an injudicious overextension of our military power if we were to try to build up that kind of an organization in southeast Asia.

We do not have the adequate forces to do it, and I believe that if there should be open armed attack in that area the most effective step would be to strike at the source of aggression rather than to try to rush American manpower into the area to try to fight a ground war. So that we do not intend, Mr. Chairman, to have under this treaty any such local combined forces as have been created in Europe under the North Atlantic Treaty, and which goes by the name of NATO.

TREATY CONSISTENT WITH PROVISIONS OF U.N. CHARTER

The CHAIRMAN. You see nothing inconsistent here between this and the United Nations? You think that the arrangement that was made is consistent with the regional provisions in the United Nations Charter?

Secretary DULLES. I would say, Mr. Chairman, that it comes under the collective security provisions of article 51 rather than the regional provisions of article 52. Article 51 is a provision that nothing contained in the charter shall deprive any of the states from the individual or collective right of self-defense. That is the provision we are operating under rather than the regional provision, one reason being that under a regional organization, no enforcement measures can be taken without the prior approval of the Security Council, where the Soviet Union has a veto, and we would not want to have an organization where action could be vetoed by the Soviet Union.

PACIFIC CHARTER

The CHAIRMAN. While you were in Manila, you also signed the Pacific Charter upholding the principles of equal rights, self-determination of peoples. Do you expect that will be submitted to the Senate?

Secretary DULLES. It has, as I said, been submitted to the Senate for its information but not for action.

The CHAIRMAN. Not for ratification?

Secretary DULLES. Not for ratification; no, sir.

ADDITIONAL MEMBERS OF THE TREATY

The CHAIRMAN. Article VII of the treaty provides:

"Any other State in a position to further the objectives of this Treaty and to contribute to the security of the area may, by unanimous agreement of the Parties be invited to accede to this Treaty."

What are the chances of bringing India, Burma, Indonesia, and the Associated States of Indochina into the treaty; and further, are there any indications of a shift in Indian policy since the visit of Nehru to Red China? Those are two questions.

Secretary DULLES. I would not want, Mr. Chairman, to speculate here on the likelihood of the other countries you mentioned coming in.

As I say, we would be very happy if they were disposed to come in; that is entirely a matter for them to decide for themselves.

I think, perhaps, in describing earlier the various threats of subversive activity, I may have mentioned certain countries that were not parties to this treaty. I should make clear that I did not, in doing so, intend in any sense to imply that the treaty members felt that they had any responsibility with respect to such action. I was merely outlining the general threat in the area and the Communist tactics.

I am not intending to suggest that where those activities are directed against countries who were not parties to the treaty that the treaty places any responsibility or authority upon the treaty members to deal with that type of activity. The subversive activity against which we are concerned, is of course, subversive activity which involves the treaty area.

You asked whether there was any evidence of changing intentions on the part of Red China since Nehru went to Peiping. I would say that we have no such evidence. That does not exclude the possibility that he might have exerted a useful influence. All I can say is that we have no facts which would lead me to affirm that that is the case.

ADDITIONAL MEMBERSHIP POSSIBLE BY AMENDMENT TO TREATY

The CHAIRMAN. If some of the members I have mentioned should come in under the new treaty, do you think that would require further advice and consent by the Senate?

Secretary DULLES. Yes, sir; I would assume that the same practice would prevail here as prevails with relation to the North Atlantic Treaty. The language is the same, and it was agreed between the Executive and the Senate at the time of the North Atlantic Treaty that if additional states came in that would require an amendment of the treaty or a protocol to the treaty, on which the advice and consent of the Senate would be sought.

We would interpret this language in the same way that similar language in the North Atlantic Treaty is interpreted, namely, as requiring Senate action in that event.

RELATIONSHIP OF TREATY TO LAOS, VIETNAM, AND CAMBODIA

The CHAIRMAN. Now, I think you said something about this subject, but in the protocol to the treaty Laos, Cambodia, and Vietnam are designated for purposes of article III and article IV. Just what does this designation mean? In that connection, would you discuss with the committee the relationship of those three states to the Southeast Asia Treaty in the light of the armistice concluded at Geneva in May?

Secretary DULLES. The addition by the protocol to the treaty area of Cambodia, Laos, and the free territory under the jurisdiction of the state of Vietnam, has the effect that if there should be an armed attack against that area, it would be regarded by the parties as dangerous to the peace and safety of the parties to the treaty under article IV.

As I pointed out, the countries in question, Cambodia, Laos, and free Vietnam, did not themselves become parties to the treaty because of the fact that the Geneva armistice agreements at least raise a question as to the propriety of their doing so, and it seemed undesirable to some of the parties to those agreements to raise that question, particularly at a time when the armistice was in the process of being carried out and had not yet been fully carried out.

The armistice terms themselves are extremely complicated, somewhat ambiguous, with respect to these matters. It was obviously a situation where the countries concerned were properly the judges as to what was the best line for them to take. The Assocoated States concluded that they would be very happy to have their area included under the mantle of protection that this treaty would throw about it, whether or not they themselves become signatories to the treaty.

ECONOMIC AND MILITARY AID TO TREATY AREA

The CHAIRMAN. With reference to article III, in which the parties undertake "to cooperate with one another in further development of economic measures," you stated in your report to the Nation September 15:

"Congress this year had the vision to see that there might be special needs in southeast Asia. So, by the Mutual Aid Security Act, Congress has already provided a fund to be available in this area. Part of it will no doubt be spent to assist the free governments of southeast Asia."

Could you give us further details on the plans, if any, to advance the economic and military stability in that area?

Secretary DULLES. I could not at this time, Mr. Chairman, give the details of that because the problem is still being studied. The situation, particularly in Vietnam, is extremely confused, due to the lack of effective authority in the free Vietnam area.

The President a few days ago, last week in fact, asked General Collins to drop his other business and to go there, representing the President himself and the Department of State, Department of Defense, and the Foreign Operations Administration, with a view to making recommendations and, if need be, taking action with respect to these matters.

The question of what can be done effectively from a military standpoint and economic standpoint is being very intensively explored both there and in Laos and Cambodia.

We have for the first time now independent political missions to Laos and Cambodia, and new Ambassadors are there to study what can be done in those two areas.

Of course, the major problem of Indochina is in free Vietnam. There are there French forces which are contributing to the support of law and order at the present time, and there is a question of our cooperating with respect to the maintenance of those forces to the extent it seems desirable. There is also the problem of building up an enlarged police force, constabulary, and perhaps an army, for the Vietnam Government so that they can take over the responsibility for their own security.

There are a number of economic problems of acute necessity which are created by the emigration or flight of non-Communists from the northern area to the southern area.

All of these matters are being actively studied on the spot primarily now by General Collins on behalf of the United States. They will be discussed further with the Prime Minister of France, Mr. Mendes-France, when he arrives here next week. But until we are further advanced in our own thinking, Mr. Chairman, I would ask to be excused from trying to elaborate on just what we expect to do there.

THREAT OF SUBVERSION

The CHAIRMAN. In paragraph 2 of article IV there is a provision in substance, that the parties will consult immediately in order to agree on measures which should be taken when a threat occurs in any other way than by armed attack. Do you want to be a little more definite as to just what you mean?

Secretary DULLES. Well, that applies primarily to the threat of overthrow by subversive measures, internal revolution which might, perhaps, be inspired from without, but which does not involve open interference from without.

That is a situation which threatens very much in that area and where, I believe, there should be concerted action to meet it. In fact, the need in that respect is so great that I would hope that we can within the next few weeks begin to talk together with other treaty signatories about some of those problems.

The CHAIRMAN. Well, in any case, I take it that paragraph 1 of article IV applies—that part particularly—to meeting the common danger. Would it be in accordance with the constitutional processes?

Secretary DULLES. Yes, sir.

The CHAIRMAN. So whether it were the threat mentioned in section 2 or the common danger resulting from open attack, action could be taken only after consultation with Congress?

The CHAIRMAN. I thank you very much.

Senator Smith, any questions?

Senator SMITH. Yes, Mr. Chairman; I have a few questions.

I want to say first, Mr Secretary, and I am sure that Senator Mansfield will join me in this, that I wish to express my appreciation of the opportunty of being with you and your group on this trip and of being able to get a firsthand look at some of these far eastern problems. I want to thank you very much for that opportunity.

DIFFERENCES BETWEEN NATO AND SOUTHEAST ASIA TREATY

Now, there are one or two things I have put down here, and I have quite a few questions that have been asked from various sources. I have been asked a good many questions since I got back, and I am going to try, for the record, to get you to answer some of these.

You referred to the difference between NATO and this Southeast Asia Treaty and indicated the different approach.

But is it fair to say that whereas in NATO we use the expression "an attack on one is an attack on all," and that was possibly one of the reasons for setting up our NATO collective forces, that here we do not quite take the same extreme position that an attack on one is an attack on all. However, we take the view that an attack, any aggression, is a source of concern until we meet together and consult and act according to our constitutional processes. People have asked me what is the real difference between the obligations under NATO and the obligations here?

Secretary DULLES. You will remember, Senator Smith, the constitutional debate which was evoked in relation to that clause in the North Atlantic Treaty, which said that an attack upon one is an attack upon all. It raised the question as to whether that automatically gave the President powers to exercise so that in the event of an attack upon Norway, for example, he would have exactly the same power as he would have if there was an attack upon New York or Washington.

That matter was very fully debated in the

Senate at the time. I had the honor of being a Member of your body at that time and participated in that debate.

Therefore, when I had the responsibility of starting to negotiate treaties in the Pacific, I felt that it would be preferable to adopt the language which was taken from the declaration of President Monroe, and which reflects our oldest and, in a sense, most respected foreign policy, the Monroe Doctrine, where we declared that an intrusion would be dangerous to our peace and security.

Now, that was a formula which I recall that Senator Taft, who opposed the North Atlantic Treaty formula, had said would have been acceptable so far as he was concerned.

It seemed to me that the practical difference between the two from the standpoint of its giving security to the other parties was not appreciable, and that it was better to avoid a formula which would reopen the constitutional debate which took place in reference to that provision of the North Atlantic Treaty, so that formula was used in the Philippine Treaty, in the Anzus Treaties, it has been reproduced now in the Korean Treaty, and been reproduced in this treaty.

I think that the difference practically is not great, but that the present formula does avoid at least a theoretical dispute as to the relative powers of the President and the Congress under these different formulas.

RELATIONSHIP TO MONROE DOCTRINE

Senator SMITH. Well, this particular treaty which we have just signed and the other bilaterals that you have initiated might be said to have the Monroe Doctrine approach, which over a period of a good many years now has been very effective. This approach has accomplished the results that were sought originally by the Monroe Doctrine. We are practically giving a Monroe Doctrine warning here against aggression and we are standing by the votes that we took.

Secretary DULLES. The language used here which has now become, I would say, almost conventional with reference to these treaties, makes perfectly clear the determination of our Nation to react to such an armed attack. It does not attempt to get into the difficult question as to precisely how we act and precisely how the responsibilities are shared between the President and Congress.

But as far as our national determination is concerned, it is expressed here; that is the thing that other countries are concerned with, and the question of our internal procedures is not properly a matter of their concern, and, in fact, none of the countries with whom we have dealt are concerned about the difference in the formula.

Therefore I think it is better to use this language, which does avoid constitutional controversy, which has been used in these other treaties, and which stems from one of our oldest foreign policies, that of the Monroe Doctrine.

In a sense, it is perhaps not quite as automatic as the other, but that would depend on circumstances. It is a clear determination of our national resolve, which I think will adequately serve to deter, if it is possible to deter at all.

PRINCIPLES OF FREEDOM AND INDEPENDENCE

Senator SMITH. Well, Mr. Secretary, I was very much impressed by 1 or 2 things while we were out there, one of which was the preamble in which we set forth pretty clearly the fundamental principles of freedom and independence, with self-determination for peoples who desired or were able to undertake responsibilities. I remember we had quite a discussion of how it should be worded, and what should be done by the various nations involved; but it seemed to me that was a terribly important factor, which you so brilliantly and so inspiringly presented from the standpoint of the United States.

I would just like to emphasize that and ask you to comment briefly on that point, because I think it was very important. It is embodied also in the so-called charter which was initiated by Mr. Magsaysay, as you said.

Secretary DULLES. You will recall, Senator, that in the opening remarks which I made at the Manila Conference, I said that it must be made clear and abundantly clear that association between the Asian countries and the western countries would not in any way directly or indirectly involve any subservient relationship, any perpetuation of a colonial relationship because, if that was the case, then we would not have that association.

Of course, the Communists are trying desperately to make the Asian peoples believe that if they have any association at all with western powers it means perpetuation of colonialism. They do that because they know that the Asian powers will be extremely weak unless they can enjoy collective security, which, to some measure, will involve the western nations, and if they can create that breach, then Asia can readily fall under their control and power. Such slogans as "Asia for the Asians," "Keep the West Out," are only slogans which are invented by people who want to exert a mastery over all of Asia, and who know they can only do it effectively if they can get the Asians themselves first to break wholly their ties with the West, and then become so weak that they automatically almost fall into the Communist camp.

Now, that is the great danger which we are combating, in that area, and it is the danger which we must be eternally vigilant to combat. I believe that one of the major achievements of this Manila Conference was the fact that we took a big step forward in combating that Communist line.

POSITIVE INITIATIVE OF THE ASIANS

Senator SMITH. I wanted to stress that because it impressed me personally as one of the most important things when we discussed it.

One of the other things that impressed me was the very positive initiative taken by the Asians themselves. Our old friends, the Filipinos were the hosts there and, under your wise direction, the Filipinos were asked to chair the meetings. I think you will agree with me, and I would be glad to have you say so if you do, that the Asians themselves showed great initiative in working out the form that the treaty was to take.

Is it not true that the Asians were eager to move right ahead with this, and contributed enormously? I remember the speeches made by Prince Wan of Thailand, and Mr. Khan of Pakistan, and their understanding of the spirit of the whole thing. They joined with the Philippines, Australia, New Zealand, the United Kingdom, France, and ourselves in setting up this protocol.

Secretary DULLES. I thoroughly agree with you, Senator Smith. The interest, the initiative, taken by the Asian members of this Conference was a very encouraging and heartening fact.

SUBVERSIVE ACTIVITY

Senator SMITH. You referred to the question of subversive activity mentioned in article II. This contains, as you said in your opening remarks, a significant new undertaking providing for mutual aid to prevent and counter subversive activity directed from outside against the territorial integrity and political stability of the members.

Under what circumstances would this provision be applicable, and what measures are contemplated to make it effective?

I think you said you were hoping to have a conference in the near future with the countries concerned as to how the provisions of this article can best be carried out. Can you develop this further at this point?

Secretary DULLES. Well, I can develop it somewhat. Obviously it is not practical publicly to develop details.

Senator SMITH. That is true.

Secretary DULLES. As a prior question brought out, I think, one of the questions of the chairman, it is contemplated that there may be in this matter a conference to decide what to do about these subversive activities if they do become acute. They already are becoming acute in some areas, and I believe we should very quickly put our heads together to decide what to do about it.

There is a very considerable experience in these matters. The Philippines themselves have had a very educational, if hard, time in dealing with the Huk revolution, but I would say that President Magsaysay is as well qualified as any man in the world today to know how to deal with these subversive activities. He has done an amazing job in the Philippines.

The British have had cosiderable experience in Malaya; we have had considerable experience; the Thailanders have had considerable experience; and I think that there are measures to be taken.

Of course, the hard core of any measure should be found in the country which is itself involved, and there is a grave need, particularly in Vietnam, for a strong government which commands the loyalty of the people, and which has an effective police and constabulary at its command to detect and run down these subversive activities.

That situation is by no means satisfactory at the present time. It calls for very attentive consideration by all of us, and I think I can say that it will be given such consideration.

THE TREATY AREA

Senator SMITH. Now, Mr. Secretary, article VIII defines the treaty area, and it is not quite clear to me just what the area is. It seems to me it is important for all of us to understand just exactly what area the treaty covers.

Secretary DULLES. Well, broadly speaking, it includes the territory of the parties and the Pacific Ocean area which is south of 21 degrees and 30 minutes; that is a line which runs north of the Philippines. There are territories of some of the parties which lie north of that area, which it was not felt desirable to include.

But, broadly speaking, the area, therefore, is Pakistan, Thailand, and, by protocol, Laos, Vietnam and Cambodia, Malay, Australia and New Zealand, and the Philippines.

Senator SMITH. It does not go far enough north to include what might be called the Hong Kong area or Formosa or Japan or Korea?

Secretary DULLES. No.

Senator SMITH. They are not included in this treaty at all?

Secretary DULLES. That is correct.

Senator SMITH. I wanted to get that.

Senator DULLES. Of course, neither the Republic of China nor the Japanese Government were parties to the treaty, so they would not have been included in any event.

The United Kingdom is a party to the treaty and, if it were not for this limiting clause, Hong Kong would have been included, but Hong Kong is not included.

SENATE RATIFICATION NECESSARY FOR AMENDMENT TO TREATY

Senator SMITH. The treaty provides for including nations other than the ones that signed it, and also possibly extending the treaty area. That can be done by unanimous consent, apparently, of the parties to the treaty.

I think the question has previously been raised—I just do not recall the form of your answer—but would that require us to bring back to the Senate of the United States for ratification, in your judgment, any additions of that kind? We have the protocol here which includes Laos, Cambodia, and the free

territory of the state of Vietnam, and, I suppose when we ratify this treaty we will also ratify that protocol. But do you contemplate that in the future, if there are any amendments, we will need to bring the matter to the Senate for ratification?

Secretary DULLES. Yes, sir.

Senator SMITH. That would be our policy?

Secretary DULLES. Yes; it will be the policy.

I think it has now almost become more than policy; I think it is a practical construction of this language which has been adopted with reference to the North Atlantic Treaty, and I would assume that the same interpretation would be put on it here.

You will note that the President in his letter of transmittal of this treaty to the Senate says this:

"I concur in the recommendation of the Secretary that the 'unanimous agreement' required by article IV, paragraph 1, for the designation of states or territories, by article VII for the invitation to states to accede to the treaty, and by article VIII for a change in the treaty area is to be understood in each instance as requiring the advice and consent of the Senate."

I think there is no doubt but what that would be a binding interpretation of the language.

THE TREATY AREA

Senator SMITH. Well, now, let us get back to the area question. Suppose there is aggression against India or Burma, who are not in the treaty; would we feel that this constituted a threat of a nature that would call for action on our part?

Secretary DULLES. Well, we might feel so, but that would be a matter for purely national action; that is not covered by any international engagement of any country.

Senator SMITH. It would be a matter for us to decide.

Secretary DULLES. Yes, it would be. Of course, it would be a violation of the United Nations Charter and would presumably bring into play the processes of the United Nations, but we have no particular treaty engagement other than the United Nations Charter to cover that situation.

SITUATION IN INDOCHINA

Senator SMITH. Now, referring to Indochina where we are all very much concerned. According to a number of reports, one of the areas mentioned in the protocol, the present territory and jurisdiction of Vietnam, is in danger of falling under Communist domination. If that occurs, due to internal or external pressure, will the treaty involve us in measures to resist Communist control of the area? I think you answered that before, but I would like to get a clear answer as to whether a sudden movement toward Communist domination in south Vietnam would bring this treaty into operation.

Secretary DULLES. Are you referring now to armed attack?

Senator SMITH. It would be armed attack; but suppose there were internal pressures—the subversive activity; was that not one of the questions we were trying to include?

Secretary DULLES. Yes. I just was not clear as to whether your question is directed to article IV, paragraph 1, or article IV, paragraph 2.

Senator SMITH. Let us consider them both. Suppose there is an armed attack under article IV, 1. I would think there would be no question in this instance, but if there is subversive activity which is threatening the integrity of south Vietnam—free Vietnam—would we feel that we were called upon under the treaty to give a danger signal and get together with our allies and consider it?

Secretary DULLES. Well, article IV, paragraph 2, contemplates that if that situation arises or threatens, that we should consult together immediately in order to agree on measures which should be taken. That is an obligation for consultation. It is not an obligation for action.

Of course, we are free to and are taking measures already, apart from the treaty and before the treaty is enforced to assist in combating subversion in that area.

But we can do much more effectively, I think what needs to be done, if the treaty is in force, and we have procedures for consultation under the treaty as to how to deal with these situations.

As I said, there are other members of this treaty who have very considerable experience in these matters. I referred to, as you will recall, President Magsaysay and, I believe, by meeting together we can find more effectively and surely the necessary redemptive measures than we could if we each operated separately.

Senator SMITH. Mr. Chairman, I am going to yield to my colleagues.

MEMBERSHIP OF THE TREATY

The CHAIRMAN. Senator Green.

Senator GREEN. Mr. Chairman, thank you.

Mr. Secretary, in the first place, let me say that I am rather at a disadvantage in asking questions. This message came from the President only yesterday, and I suppose, like other members of the committee or at least most of them, we have not seen it until this meeting. The questions I ask are for information only, and I hope you will not think that I am in any way opposed to the treaty or even have any exceptions to take to its terms.

It is simply for information that I am asking, and you may think the question is quite unnecessary in view of your statements here this morning. But it is rather difficult to read a text such as this and listen to your exposition of it at the same time.

If, on further reading or reading of the whole text, my associates on the committee or I have further questions to ask, I suppose we may be given that opportunity later.

There appear to be several questions that I can ask, though, and the first is this: What was the principle on which certain nations joined in this and other nations are excluded?

Secretary DULLES. Well, the Communist nations are excluded because we do not place confidence in their word and in their commitments. If we had confidence in the undertakings, for example, that the Communist countries have given under the United Nations Charter, there would be no occasion for treaties like the North Atlantic Treaty, and so forth.

If we really believed that these Communist countries were determined to settle all of their differences by peaceful means, as they have agreed to do, we already have their undertaking in the United Nations Charter. But their conduct, their teaching, indicates that they do not intend necessarily to live up to that—certainly we have grave doubts about it and reasonable doubts about it—and for that reason we try to get together with countries whom we can trust. Therefore, the only exclusion that operates here is an exclusion of countries who, by their own teachings, say that agreements of this sort are not designed to be lived up to but only designed to gain temporary advantages from which they can go on and make further gains.

I think it is legitimate to exclude countries who preach and practice that doctrine.

Now, except for that, there is no practice of exclusion. Any other country which wants to join and which is able and willing to make a contribution to the defense of the area would be very welcome.

RESPONSIBILITY TOWARD NONMEMBERS

Senator GREEN. Well take Indonesia as an illustration. Indonesia is not a party to this treaty; is it?

Secretary DULLES. No, sir.

Senator GREEN. Well, why not?

Secretary DULLES. Because it prefers not to be, and it is a free and independent country and has a right to decide for itself.

Senator GREEN. Well, now, there are parts of Indonesia or at least what the Indonesians claim is Indonesia, which are also claimed by the Dutch. That is right; is it not?

Secretary DULLES. The fact is that the current differences between the Dutch and the Indonesian Governments with respect to western New Guinea arise basically from their dispute over whether the question of sovereignty over the area is still to be negotiated.

Senator GREEN. Well, now, suppose trouble breaks out between the two; is it covered by this treaty?

Secretary DULLES. No, sir.

Senator GREEN. Is trouble not much more likely to break out in Indonesia than other situations that are provided for in the treaty?

Secretary DULLES. Well, I do not think so, but in any event, the danger which confronts the United States and which makes fighting a danger to the peace and security of our Nation is the Communist threat. We are concerned naturally with any quarreling and fighting that goes on anywhere, and if that broke out there would be various processes, in the United Nations and otherwise, which could be invoked and probably would be invoked. But I think it very difficult indeed to say that it is a danger to the peace and security of the United States if there is a quarrel, a border quarrel, between two friendly countries.

It may be a very unfortunate thing; it may be a thing that we want to deal with through processes of arbitration, mediation, through the various procedures that are recommended by the United Nations Charter, but the mortal threat to the United States is the threat of communism. That is what this treaty is directed against. It is not directed against differences which may arise, unhappily, between friendly states.

Senator GREEN. There are certain territories in dispute between the Netherlands and Indonesia still; are there not?

Secretary DULLES. There is a question that has been raised by Indonesia with reference to the sovereignty of part of New Guinea; yes, sir.

Senator GREEN. What is the attitude of our country toward that?

Secretary DULLES. The attitude of our country is that we are neutral in a controversy between two friendly countries.

Senator GREEN. As I glanced through this text, I saw reference to the policy of self-determination of peoples.

Secretary DULLES. Yes. The dispute between Indonesia and the Netherlands with reference to New Guinea does not of itself involve the question of self-determination. The people of New Guinea are a race totally distinct either from Indonesia or the Netherlands, and in that case the question of their self-determination is not the issue in the controversy.

SUBVERSIVE ACTIVITY

Senator GREEN. Well, the treaty undertakes, as I understand it, to provide for cases where there is insurrection; it obliges us, does it not, to take the part of the government against the revolutionaries?

Secretary DULLES. I did not get that question, sir.

Senator GREEN. Is there not some provision in the treaty—I thought I saw it as I glanced through it—that we join in putting down insurrections in these countries?

Secretary DULLES. No, sir. There is provision that if there is a subversion, threatened subversion, of the political independence of any country, then we will consult together what to do about it.

Senator GREEN. That is subversion then.

Secretary DULLES. Yes, sir.

Senator GREEN. Well, isn't that another word for insurrection?

Secretary DULLES. I would think insurrection is a form of subversion, yes.

Senator GREEN. Then we are obliged to help put down a revolutionary movement.

Secretary DULLES. No. If there is a revolutionary movement in Vietnam or in Thailand, we would consult together as to what to do about it, because if taht were a subversive movement that was in fact propagated by communism, it would be a very grave threat to us. But we have no undertaking to put it down; all we have is an undertaking to consult together as to what to do about it.

Senator GREEN. I did have time to read the message of the President in communicating this treaty to the Senate, and he says as follows:

"It is a treaty for defense against both open armed attacks and internal subversion."

Then he limits the meaning of armed attack—that is from outside—to a Communist armed attack.

As I read that, two questions occurred to me. In the first place, the question was whether internal subversion is not another phrase for insurrection or revolutionary means. That is excluded from the understanding which the President refers to later, because it refers to an armed attack alone—the other of the alternatives. So it seems to me as though we are undertaking in all these countries to put down revolutionary movements. I know that, generally, both in Asia and in South America there is a feeling that the United States' sympathies ought tob e with the revolutionaries because we were a revolutionary government ourselves, and they regret that not only do we not take the part of the revolutionaries, but we take the part against them.

Whta would be your comment on that?

Secretary DULLES. My comment on that, Senator, is that there are two kinds of revolutions. One is a truly indigenous revolution which reflects the will of the people, and we ourselves, who had our birth in revolution, naturally are sympathetic to the aspirations of the peoples.

On the other hand, communism has adopted revolution as one of its principal tools of expansion. It gains control of revolutionary movements, and certainly I do not think that we should go so far as to say that any revolutionary movement has the sympathy of the United States.

The Communists got control of China through a revolution. The fact that they used a revolution to do it does not prove that we are, therefore, sympathetic with the Chinese Communists—at least I do not think so.

Senator GREEN. On the other hand, we ought not to take the position that any uprising of peoples is necessarily subversive and communistic.

Secretary DULLES. That is quite correct.

Senator GREEN. They usually are a result of mixed motives.

Secretary DULLES. That is why, Senator, there is no obligation whatever in this treaty for any automatic action in the event of a subversive movement. If there is a subversive thing which seems dangerous, we sit together and talk about it, and then try to agree as to whether it calls for action.

Senator GREEN. Well, that is largely because the Communists are clever enough to identify themselves with any uprising; is it not?

Secretary DULLES. Well, they are extremely clever in getting control of the discontented movements in all of the countries.

Senator GREEN. Well, we certainly go to the other extreme and identify ourselves against any uprising or revolutionary movement.

Secretary DULLES. We do not try to do that, but we do try not to identify ourselves with revolutionary movements which are dominated and engineered by communism.

ADMITTING NEW MEMBERS TO THE TREATY

Senator GREEN. Well, now, there was another question that occurred to me, with regard to the provision for other states to join. I think this question was asked before, and you answered that this would be possible with the advice and consent of the Senate.

Secretary DULLES. Yes, sir.

Senator GREEN. But, the language in the treaty itself is that any other state may join, "by depositing its instrument with the Government of the Philippines."

Now, that does not require the consent of the Senate.

Secretary DULLES. The treaty, I think, says that it requires the unanimous agreement of the present parties first.

Senator GREEN. I must say that I am still at a disadvantage. Somewhere in here I noticed that any other state may join "by depositing its instrument with the Government of the Philippines." If that is so, why does it have to be, or would it be contrary to the treaty itself for us to require the consent of the Senate?

Secretary DULLES. The article reads, Senator:

"Any other state may, by unanimous agreement of the parties, be invited to accede to this treaty. Any state so invited may become a party to the treaty by depositing its instrument of accession with the Government of the Republic of the Philippines."

In other words, no state is entitled to join this treaty merely by its own action of depositing an instrument of ratification. It has to be invited and has to be invited unanimously.

Now, we did not attempt in the treaty itself to prescribe the constitutional procedures whereby each of the eight parties gives that consent. Under our constitutional procedure it is agreed that that consent can only be given with the concurrence of the Senate. Therefore, the United States Senate has a complete control over whether and to whom this treaty is extended.

Senator GREEN. Then it would have to require the subsequent assent of all the different governments?

Secretary DULLES. Yes, sir.

Senator GREEN. In spite of the language of article VIII?

Secretary DULLES. No; pursuant to the language of article VII, because article VII says they can only come in by unanimous agreement of the parties.

COMMUNIST AGGRESSION

Senator GREEN. Then the President in his message said that the term "armed attack," as used in the treaty, means a Communist attack. That does not limit it to a Soviet attacks, does it?

Secretary DULLES. No, sir.

Secretary GREEN. So it would be an attack by any government which is considered communistic?

Secretary DULLES. Yes. If, for example, the Chinese Communists were to make such an armed attack, that would be included in this reference.

Senator GREEN. Where in the treaty can that statement be found? Why didn't they say that in the treaty, if that is what it means?

Secretary DULLES. This is in the treaty, sir.

Senator GREEN. I thought they had a mutual covenant against resisting armed atack.

Secretary DULLES. There is a provision of article IV which talks about armed attack generally. Then there is an understanding incorporated in the treaty which says that, as far as the United States is concerned, the only armed attack which we will regard as obligating us under article IV, paragraph 1, is a Communist armed attack.

Senator GREEN. I have not had a chance to read it, as I said before, but is it in here that in the case of the United States, the only attack which is covered by the treaty is a Communist attack?

Secretary DULLES. Yes, sir.

Senator GREEN. Communist armed attack?

Secretary DULLES. Yes, sir.

Senator GREEN. That does not cover Communist subversion?

Secretary DULLES. Subversion is covered by the provisions of article IV, paragraph 2, which lead to consultation, but there is in the treaty itself no commitment to action in that event unless action is subsequently agreed to as a result of the consultation.

Senator GREEN. Well, then, the Communists would include not only Soviet Russia, but China, and so much of Indochina as has been recognized as Communist.

Secretary DULLES It would cover at the present time the Communist regime in China and also the regime of Ho Chi Minh in North Vietnam.

Senator GREEN. Well, these were some of the questions I wanted to get for my own information.

Secretary DULLES. Yes.

Senator GREEN. Thank you very much.

The CHAIRMAN. Thank you.

Senator Hickenlooper?

RELATIONSHIP OF THE TREATY TO THE U.N. CHARTER

Senator HICKENLOOPER. Mr. Secretary, most of the questions that I would be interested in have already been asked, and I shall not plow the same ground twice. But I do want to ask you about article I:

The parties undertake—

I am reading from article I—as set forth in the charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner—and so on.

I am concerned as to whether or not that provision in this treaty enlarges either our responsibility under the United Nations Charter or alters in any way the relationship of the authority of our Government under the United Nations Charter. Does this have any effect on either enlarging or diminishing our relationships with the United Nations or our responsibilities under the United Nations Charter?

Secretary DULLES. No, sir. This article I is an article which is a substantially verbatim repetition of article II, paragraph 4, of the United Nations Charter, which will be found in, I think, all of the other collective security arrangements which we have made since the adoption of the charter.

The charter language to which I refer reads as follows——

Senator HICKENLOOPER. I understand what the charter reference is.

Secretary DULLES. Yes.

Senator HICKENLOOPER. I am only attempting to find out whether or not the reiteration of this statement in the treaty adds to or detracts from our responsibility or obligations under the United Nations Charter.

Secretary DULLES. I can say categorically, sir, that in my opinion this neither adds one jot or title nor subtracts one jot or title, from our objective as expressed in the Charter of the United Nations.

Senator HICKENLOOPER. In other words, this reference to the United Nations in article I, in your view, is for reference purposes only, and has no influence in adding to or detracting from whatever obligations or lack of obligations we already have under the United Nations Charter. It has no effect on increasing or diminishing the authority, either ours or the United Nations, under the United Nations Charter?

Secretary DULLES. Yes, sir. In fact, in my opinion, this article has no substantive value, in fact, but has customarily been put in such treaties. In pursuance of that custom it was inserted here, but it, in my opinion,

does not add anything to the obligations already assumed by the United States.

Senator HICKENLOOPER. Nor does the repetition in this treaty of a reference to the United Nations Charter increase or diminish, or alter in any way whatever, existing powers which the President of the United States, as Chief Executive or Commander in Chief might already have? Do you think it alters those?

Secretary DULLES. It does not alter, increase, or diminish those powers.

Senator HICKENLOOPER. Thank you.

The CHAIRMAN. Senator Fulbright?

COMMUNIST AGGRESSION

Senator FULBRIGHT. Mr. Chairman, I, like Senator Green, have not had a chance to study this, and I have only 1 or 2 questions. I was not clear about the status of this understanding of the United States regarding the aggression coming only from Communists. Is that in the treaty itself or is that an understanding just outside of the treaty among the various signatories?

Secretary DULLES. It is part of the treaty itself and is subscribed to by all the other parties to the treaty; they accept our understanding in that respect.

Senator FULBRIGHT. That is contained in the last paragraph; is it not?

Secretary DULLES. Yes, sir; it appears just above the signatures.

TECHNICAL COOPERATION

Senator FULBRIGHT. All right. I had overlooked that.

I have one other point. Could you give your view as to the significance of article III, somewhat along the line of your last answer to the Senator from Iowa's remark? In what way, if any, does article III change our present policy regarding point 4 or technical assistance? Was it intended to increase our obligations, or just what did you mean by article III?

Secretary DULLES. It was designed to reaffirm our conviction that certain economic efforts, such as technical assistance programs, cultural exchanges, and the like, all play an important part in combatting communism, and that we intend to use all of the weapons in our arsenal to meet the threat of communism in this area.

Senator FULBRIGHT. Then is it fair to say that this is a specific recognition of the importance of technical cooperation in helping to overcome the difficulties that exist in this part of the world?

Secretary DULLES. Yes, sir.

Senator FULBRIGHT. I must say I think that is a very important article. I hope it may lead to further developments. As I said, I have no particular criticism to offer on the whole. It seems to me a proper approach, but I will reserve my observations for a later meeting when I have had a little more time to digest the treaty. That is all, Mr. Chairman.

The CHAIRMAN. Senator Ferguson?

SIMILAR PROVISIONS IN RIO TREATY

Senator FERGUSON. Mr. Secretary, in article IV the first section apparently applies to armed attack and the second section to subversion and acts that might be considered attacks through subversion.

Is article IV, section 2, very similar to article VI of the Rio Treaty?

Secretary DULLES. I do not have that article VI before me. There is the same distinction made in the Rio Treaty as is made here between armed attack and disturbances which involve less than armed attack. I do not have the article VI that you refer to before me, but I assume that is the article.

Senator FERGUSON. I wanted to inquire on this point: Would a situation like that in Guatemala with regard to the shipping of arms require action under article IV, paragraph 2, rather than under paragraph 1?

Secretary DULLES. I would think that if the parallel to that was created, it would be regarded as coming under subdivision 2 rather than subdivision 1.

Senator FERGUSON. In other words, the words "armed attack" in paragraph 1 of article IV are the ordinary armed attack rather than a subterfuge of penetration or subdivision.

Secretary DULLES. Yes, sir.

Senator FERGUSON. That is all I have, Mr. Chairman.

The CHAIRMAN. Senator Sparkman?

MEMBERSHIP OF THE TREATY

Senator SPARKMAN. Mr. Secretary, I have very few questions to ask. I think the subject has been pretty well covered. But I want to pursue a little further something that Senator Green touched upon, and that is the possibility of the inclusion of other nations in that area of the world.

It seems to me that if there is one weakness in this proposed treaty, it is the fact that there are only three really Asiatic nations parties to it. Those countries are Pakistan, Thailand, and the Philippines.

Now, I assume that the other nations were invited to come into the conference?

Secretary DULLES. It was made clear to them that they would have been very welcome at the conference; yes, sir.

Senator SPARKMAN. Was an invitation sent out or was it just more or less a gathering of those who were interested—each one acting in its own interest and on its own accord?

Secretary DULLES. There was, as I recall, no formal invitation sent once it was ascertained that they would prefer not to receive such an invitation but, subject only to that, their welcome was made very clear to them.

Senator SPARKMAN. You made clear in your statement that you hope other nations may see fit to come in at a later time. I wonder if you might tell us if you have any real hope that Burma, for instance, might at some later date come in, or Indonesia? It seems to me that certainly those two nations are right in the midst of the treaty area, and would greatly strengthen the agreement.

Secretary DULLES. I think it would probably be indiscreet of me, Senator, to guess about their future.

Senator SPARKMAN. But the door is left——

Secretary DULLES. The door is wide open——

Senator SPARKMAN. Wide open, and they well understand that?

Secretary DULLES. Yes, sir.

Senator SPARKMAN. I believe that is all, Mr. Chairman.

The CHAIRMAN. Senator Knowland?

COMMUNIST COMPLIANCE TO THE KOREAN ARMISTICE AND GENEVA AGREEMENTS

Senator KNOWLAND. Mr. Secretary, I would like to have some information supplied to the committee, and I can see that there may be some valid reasons why either you would not have the information immediately available or feel that this would not be a proper place to furnish it, but I do think the requests are pertinent because the Senate's decision in relation to this Manila Pact may very definitely be tied in with the entire security situation in the Far Pacific.

I would like to have furnished to the Committee on Foreign Relations for executive session and study, and later questioning in executive session, full information relative to the Communist compliance with the terms of the Geneva Armistice Agreement. I think that information is sufficiently clear so that you have in mind what the committee may be interested in; namely, are they carrying out the terms? Have there been the withdrawals from Laos and Cambodia of any units that were in those countries; and, is the freedom being given to the people within the northern part of Vietnam to get out, as was the general understanding?

Secondly, while this does not directly relate to the Manila Pact, it does affect the peace in the Far Pacific, I would likewise desire to have for the information of the Foreign Relations Committee, for subsequent questions to be raised and answered, full information relative to Communist compliance with the terms of Korean armistice agreement.

And, third, full information relative to the functioning or inability to function of the so-called Neutral Nations Armistice Commission in Korea, again affecting the general peace of the entire Pacific area.

Those are my requests for information at the present time, and I want to close by commending the Secretary of State and the members of the delegation, including the two Senators, Senators Mansfield and Smith, who accompanied you. I believe that this is a step in the right direction toward developing a collective system of defense in the Pacific.

Secretary DULLES. Thank you, Senator. I will try to obtain this information and present it in executive session.

(The information, all of a classified nature, was subsequently furnished the committee and has been made a part of the permanent record.)

RECOGNITION OF THE PHILIPPINE DELEGATION

The CHAIRMAN. I want to call the attention of the committee and the audience that we have the privilege of having with us the group of the Philippine delegation that was introduced on the floor of the Senate yesterday. Today is what we used to call Armistice Day, and I think it is a special occasion when we realize that 36 years ago the nations of the earth thought they had a great destiny of peace ahead of them, and we know what has happened since. We are glad to welcome this delegation, glad they are in America to get acquainted with us. Thirty-six years ago the bells rang out for peace around the world, and I think it is a good omen that today, Mr. Secretary, we have before us the Manila Pact, the accomplishments in Egypt, Iran, Trieste, the nine-power pact, all symbolic, I trust, of that faith we expressed 36 years ago.

Senator Gillette?

UNITED STATES POLICY IN CASE OF ARMED ATTACK

Senator GILLETTE. Mr. Secretary, I have just one question to ask. Referring to article IV again, the first section is clear. It states that each party recognizes an armed attack as threatening all, and agrees to act in meeting the common danger according to its constitutional processes.

But section 2 provides that any similar threat, other than by armed attack will be met by consultation among the parties and agreement as to what action will be taken.

Now, keeping those two things in mind, we come to the concluding paragraph, which states that we only recognize the obligation under section 1 in case of Communist aggression when we will proceed by our constitutional processes.

Now, this is a hypothetical question—very improbable—but one that I should like to have answered. In the event that there is armed attack in this area by other than a Communist country, does that mean that we, as a signatory, cannot take any action in case of such armed attack in accordance with our constitutional processes until we have consulted with all the others and obtained agreement as to what we should do?

Secretary DULLES. No, sir. In that respect we retain entire control of our own policy, according to our own judgment. If there should be an armed attack which is not a Communist attack, affecting one of the parties to this treaty, the question of what we should do would then be determined by us as a matter of national policy. We would not be obligated under this treaty.

Senator GILLETTE. May I supplement my question by saying I do not quite see why

that follows. We provide by agreement that in case of an armed attack by a Communist country, we shall proceed, as you have just designated, by our constitutional processes, but we specifically provide in this concluding pagaraph that if there is an armed attack by any other than a Communist country that we shall first consult with these associates and obtain their agreement before we take any action.

Secertary DULLES. No. I think you have read into that more than it contains.

Senator GILLETTE. Well, I hope I have.

Secretary DULLES. It does not say that we will only act in agreement or consultation. It does say that in that event we will be willing to consult.

Senator GILLETTE. No; it says that we will consult under the provisions of article IV, paragraph 2.

Secretary DULLES. Yes, sir.

Senator GILLETTE. The language does not state that we will be willing to consult, but before we take any action we "will" consult under that provision and obtain agreement as to what action shall be taken.

Secretary DULLES. No, sir; it does say that we will consult before we act. All it says is we will consult.

Senator GILLETTE. And that may be subsequent to action that we take?

Secretary DULLES. It could be.

Senator GILLETTE. That we take independently?

Secretary DULLES. As you say, it is quite unlikely as a practical matter that we would act first, because, as I indicated, unless the armed attack is of Communist origin, it is difficult to say truthfully that it seriously affects the security of the United States. If communism throws aside all restraints and goes in for armed attack, then I think we can reasonably conclude that it is starting on a course of action which is directly aimed at the United States, that we are the target. We could not say that truthfully in the event that theer is an armed attack which occurred between two of the parties to this treaty, which would not be of Communist origin. That would not prove that there was any design against the United States. Therefore, we do not assume the same commitments in that respect.

We do say that we will consult. We do not say that we will consult prior to any other action. We merely say we will consult, period.

Senator GILLETTE. That is all, Mr. Chairman.

The CHAIRMAN. Senator Aiken?

COMMENDATION OF THE UNITED STATES DELEGATION

Senator AIKEN. Mr. Chairman, I doubt if any questions which I might ask at this time would contribute to the information which we already have on hand.

I would like at this time, however, to compliment the Secretary of State, Secretary Dulles, on having conscientiously and apparently effectively performed what appeared to be an almost impossible task, not only with regard to this treaty, but to the whole handling of our foreign relations. As far as this treaty goes, I would like to include Senator Smith and Senator Mansfield in my remarks, because I think so long as we operate as they have been doing, not only the people of this country but the people of other countries as well will have a great deal of respect for their efforts.

The CHAIRMAN. Senator Mansfield?

Senator MANSFIELD. Mr. Chairman, I have no questions, but I would like to make a few comments, if I may.

The CHAIRMAN. Carry on.

Senator MANSFIELD. I want to join with Senator Smith and Senator Aiken in congratulating the Secretary of State for the outstanding job that he did at Manila, carrying out the policies of our country on a bipartisan, statemanlike basis.

I think that he and Senator Smith are to be highly commended for the magnificent work they did there. I am delighted to see Admiral Davis, Ambassador Sebald, and Douglas MacArthur, who also were there and did great work.

I believe special credit should go to Messrs. Spruance and Lacy, our representatives to the Government of the Philippines, and I think it ought to be brought out that while this is, perhaps, not the ideal solution, it is the best possible solution which could be arrived at during the time of consideration.

It is the first time, to my knowledge, that countries in that part of the world, of different religious backgrounds—Buddhist, Moslem, and Christian—got together, ironed out their differences, and arrived at a solution satisfactory to all.

I was especially impressed with the statesmanship shown by President Magsaysay and the Philippine delegation under Vice President Carlos Garcia, and our old colleague, Senator Francisco Delgado, who, I am happy to see, is with us this morning.

It seems to me that Senator Delgado is carrying his interest in this matter to the logical extreme, and it is a pleasure for me to state for the record that it was an honor and a privilege to be at this Conference and to work with Secretary Dulles and Senator Smith and the rest of the American delegation, and to come up with what I think is a sound solution to the difficulties confronting all of us in that area.

That is all, Mr. Chairman.

The CHAIRMAN. I would like to add a word of praise for the distinguished Senator who has just spoken.

I might say that in the recent campaign he did not hesitate to say, in substance, what he has said now, which indicates the mind not only of a statesman, but a level-headed thinker.

Senator Capehart?

Senator MANSFIELD. Mr. Chairman, I see our very efficient Assistant Secretary of State for Far Eastern Affairs, Walter Robertson, is here. Although he was not at the Manila Conference, he was holding down the fort in this part of the globe at the time. He was doing so under extremely difficult circumstances, because he was quite ill.

I would like to ask permission, if I may, to insert all the names of the members of the American delegation in the hearings at this point.

The CHAIRMAN. So ordered.

(The names of the American delegation are as follows:)

UNITED STATES DELEGATION TO THE MEETING ON THE SOUTHEAST ASIA PACT, MANILA, SEPTEMBER, 6, 1954

United States plenipotentiary representatives:

John Foster Dulles, Secretary of State

H. Alexander Smith, United States Senator from New Jersey

Michael J. Mansfield, United States Senator from Montana

Roderic L. O'Connor, special assistant to the Secretary

Delegation coordinator:

Douglas MacArthur II, counselor, Department of State

Special advisers:

Arthur C. Davis, vice admiral, United States Navy, Deputy Assistant Secretary for International Security Affairs, Department of Defense

Carl W. McCardle, Assistant Secretary of State for Public Affairs

Herman Phleger, legal adviser, Department of State

Ambassador William J. Sebald

Raymond A. Spruance, American Ambassador to the Republic of the Philippines

Press officer:

Henry Suydam, Chief, News Division, Department of State

Advisers:

James D. Bell, officer in charge, Philippine Affairs, Department of State

Chester L. Cooper, Office of Chinese Affairs, Department of State

James Cross, Bureau of Far Eastern Affairs, Department of State

John E. Dwan, lieutenant colonel, United States Army, Department of Defense

William J. Galloway, Office of the Counselor, Department of State

Outerbridge Horsey, officer in charge, commonwealth affairs, Department of State

William S. B. Lacy, American counselor of Embassy, Manila

N. Paul Neilson, Deputy Assistant Director for the Far East, USIA

Charles C. Stelle, policy planning staff, Department of State

Charles A. Sullivan, Chief, American and Far East Division, Office of Foreign Military Affairs, Department of Defense

Deputy Coordinator:

Walter N. Turlock, Executive Secretariat, Department of State

Reports officer:

Eugene V. McAuliffe, Executive Secretariat, Department of State

Administrative officer:

Bruce Grainger, Division of International Conferences, Department of State

Secretary DULLES. Mr. Chairman, I had only now observed the presence of Senator Delgado. He was blotted out by these lights which were interposed between him and me. It is indeed very gratifying to me that the senator, who so ably led the Philippine delegation at Manila, should be here at this hearing.

The Philippine Government was not only the host to this Conference, but they made, through their President, their Vice President, and the chairman of their delegation, a great substantive contribution to the constructive results which have been achieved, both in terms of the treaty and of the Pacific Charter.

Senator CAPEHART. Mr. Chairman, I do not think I want to ask any questions, but I would like to make this observation, that I am hopeful that the other nations will become parties to this treaty. I think it would be much more effective if all other nations were likewise members of the pact. It looks to me like an excellent treaty. I do not think I should spoil the Secretary here by throwing any bouquets at him, because there were a lot of them thrown at him this morning. We do not want him to go to, what shall I say—he may quit making these fine treaties and quit working if we think he is too good.

Secretary DULLES. Senator, I get plenty of the other things, so you need not worry about my being spoiled.

Senator CAPEHART. I have no questions or suggestions. It looks to me like an excellent treaty, Mr. Secretary.

Secretary DULLES. Thank you, sir.

The CHAIRMAN. Mr. Secretary and gentlemen, before we proceed further—and I presume we can expect some testimony, can we, from Adm. Arthur G. Davis—I want to say, as in the Korean Defense Pact, there was inserted in the record a comparative chart of mutual-defense treaties between the United States and other Pacific countries with whom we had concluded such treaties.

I should like at this time to reproduce that chart into the record, together with an addition to it, which sets forth the similarities and differences between the Southeast Asia Collective Defense Treaty and the other pacts appearing in the chart. It will be so ordered.

[3. Excerpts from the Report of the Foreign Relations Committee on the SEATO Treaty]

REPORT TO ACCOMPANY EXECUTIVE K, EIGHTY-THIRD CONGRESS, SECOND SESSION

The Committee on Foreign Relations, to whom was referred the Southeast Asia Collective Defense Treaty (Ex. K, 83d Cong., 2d sess.) and the protocol thereto signed at Manila on September 8, 1954, reports both instruments to the Senate, and recommends that its advice and consent to ratification be given at an early date.

1. MAIN PURPOSE OF THE TREATY AND PROTOCOL

This treaty constitutes an important step in the evolution of United States policy to create a system of collective security in the Western Pacific area. It is the latest addition to the protective network of mutual defense treaties which have been concluded by the United States with Japan, Australia and New Zealand, the Philippines, and Korea.

Designed to promote security and to strengthen the fabric of peace in southeast Asia and the Southwest Pacific, the treaty is intended to deter aggression in that area by warning potential aggressors that an open armed attack upon the territory of any of the parties will be regarded by each of them as dangerous to its own peace and safety (art. IV, par. 1). In such circumstances the parties agree to meet the common danger in accordance with their constitutional processes.

They also agree to consult on measures to be taken for the common defense, whenever the territorial integrity or political independence of any of the parties is threatened in any way other than by armed attack, or by any fact or situation which might endanger the peace of the area (art. IV, par. 2). Internal subversion directed from without would be an example of one such fact or situation calling for consultation.

The treaty is thus a mechanism for collective defense against both open armed attack and internal subversion, and it is in this latter respect primarily that it differs from the previous bilateral and trilateral security treaties in the Pacific. As with the Korean Mutual Defense Treaty (Ex. A, 83d Cong., 2d sess.) and similar defense treaties, the parties to the treaty reaffirm their solemn obligation under the Charter of the United Nations to settle their dispues by peaceful means and to refrain from the threat or use of force in their international relations (art. I). The treaty pledges them to maintain and develop their individual and collective capacity to resist armed attack, and, further, to prevent and counter subversive activities directed from without against their territorial integrity and political stability (art. II). It provides for cooperation in developing measures, including technical assistance designed to promote the economic progress and social well-being of the parties (art. III), for immediate consultation whenever their territorial integrity or political independence is threatened by other than armed attack or any fact endangering the peace (art. IV, par. 2), and for the creation of a council to consider matters pertaining to the implementation of the treaty (art. V). Other articles define the area to which the treaty shall apply (art. VIII) and the circumstances under which other states may be invited to accede to its terms (art. VII). Finally, an understanding is incorporated in the text of the instrument itself by which the United States declares that the armed aggression referred to in article IV as dangerous to its peace and security would be Communist aggression.

The protocol designates the States of Laos and Cambodia and the free territory under the jurisdiction of the State of Vietnam as states or territories for the purposes of article IV, thus bringing into play the obligations of the parties with respect to armed attack and indirect aggression against this addition to the "treaty area". At the same time those countries are made eligible for the kind of economic measures and technical assistance contemplated in article III of the treaty.

2. BACKGROUND OF THE TREATY

At the time that negotiations were begun in 1950 leading to the Japanese security treaty and to the series of separate security pacts in the Pacific area, it was hoped that a rather broad type of collective security arrangement might be worked out. It was not then possible to realize this goal, and further action on a multipartite protective umbrella over Southeast Asia had to be deferred as long as active hostilities continued in Indochina. The defense treaties with Japan, the Philippines and Australia and New Zealand, which were approved by the Senate on March 20, 1952, were not regarded as ultimate ends in themselves, but were expressly conceived as measures taken "pending the development of a more comprehensive and effective system of regional security" in the Pacific area. Following an address by President Eisenhower on April 16, 1953, in which he advocated "united action for Southeast Asia", Secretary of State John Foster Dulles sought during the next year to complete a pact covering this area. Until after the Geneva armistice agreements were concluded, however, circumstances made that impracticable.

In the course of hearings on the Korean Defense Treaty (Ex. A, 83d Cong., 2d sess.) the committee had stated its conviction that a multilateral agreement for the Pacific, comparable to the North Atlantic Treaty, would be desirable. Secretary Dulles, however, pointed out that substantial cultural, political, and geographical differences existed among the Pacific countries which distinguished this area from Europe and constituted serious obstacles to achieving the desired development at an early date. The committee acknowledged these difficulties but nevertheless expressed the hope that the Department of State would continue its efforts to encourage the nations of the Pacific to work together for their regional and collective self-defense.

After 4 months of negotiations between the United States and other governments, it was announced on August 14, 1954 that upon the invitation of the Government of the Philippines, the Foreign Ministers of the Governments concerned had agreed to meet on September 6 to consider measures to further their common objectives. At the request of the President, two members of the committee, Senator H. Alexander Smith and Senator Michael J. Mansfield, accompanied Secretary Dulles to Manila as plenipotentiary delegates and, together with him, signed the treaty, the protocol and a "Pacific Charter" which was also adopted at the conference. The charter, a declaration of principles dedicating the signatory governments to the ideals of self-determination and independence, does not require ratification. The treaty and protocol were signed on September 8, 1954, and transmitted to the Senate for its advice and consent on November 10, 1954.

3. COMMITTEE ACTION

Because the administration was particularly concerned that the last session of Congress should not close without some preliminary consideration being given to the treaty, the committee decided to act with unusual dispatch. Accordingly, the first public hearing was held on November 11, 1954, the morning after the President had transmitted the pertinent documents to the Senate. There was no intention to press for further action on the treaty at that time; but it was hoped that such a demonstration of the Government's continued interest in the pact would provide additional impetus to other signatories to proceed promptly with their own ratification. At the hearing on November 11, extended testimony was heard from Secretary Dulles on the various legal and political implications of the treaty, and, more briefly, from Adm. Arthur C. Davis, Director of the Office of Foreign Military Affairs speaking on behalf of the Department of Defense.

After the 84th Congress had convened, the committee considered the treaty in executive session on January 13, 1955, when additional testimony was received from the Secretary of State. This second appearance of Mr. Dulles was useful in bringing the committee up to date on events bearing upon the treaty since its transmittal to the Senate, and in reviewing for the committee and its two new members (Senators Barkley and Morse) the underlying conditions deemed by the Secretary of State to justify expeditious action.

A second public hearing was held on January 19. Hon. Hamilton Fish, former Congressman from New York, representing the American Political Action Committee, Miss Freda Utley, on behalf of the American China Policy Association, and Mrs. Agnes Waters appeared and were heard.

On January 21, the committee agreed, by a vote of 14 to 1, to report both the treaty and the protocol to the Senate for final action.

The committee desires to commend the executive branch for its efforts to keep the committee thoroughly informed during the course of the negotiations. In the preliminary discussions as well as at the conference itself a spirit of cooperation was exhibited between the legislative and executive branches which contributed greatly to the satisfactory outcome of the proceedings.

4. SUMMARY OF TREATY PROVISIONS

The basic design of the treaty is similar to that of defense treaties previously concluded with Korea, the Philippines, and the ANZUS countries, but with several important differences.

In the preamble, the parties reaffirm their sovereign equality, their faith in the United Nations Charter, their desire to live in peace with all peoples and all governments and the intentions expressed in the Manila Charter to uphold the principles of equal rights and self-determination of peoples. The reaffirmation of these principles is accompanied by a declaration that the parties will strive to promote self-government and to secure independence for all countries whose peoples desire it and are able to undertake its responsibilities. The preamble further sets forth as the fundamental purposes of the treaty, coordination of the parties' efforts for collective defense and the preservation of security, warning potential aggressors that the signatories stand together. Thus the character of the instrument as a peaceful arrangement for defense against aggression is plainly marked.

Article I reproduces the undertaking found in other security treaties to settle any international disputes in which the parties may be involved, by peaceful means, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations. This article takes cognizance of the status of all signatories as members of the United Nations.

Article II embodies the principle of the Vandenberg resolution (S. Res. 239, 80th Cong.) characteristic of the other mutual security treaties. It pledges the parties, separately and jointly, through self-help and mutual aid to maintain and develop their individual and collective capacity not only to resist armed attack; but also "to prevent and counter subversive activities directed from without against their territorial integrity and political stability."

This recognition of the dangers of subversion and indirect aggression introduces an element not found in the system of defense agreements which preceded the Southeast Asian Treaty; in none of the prior pacts is there a provision for countering subversion, although the Japanese Security Treaty does contemplate the use of United States forces

to put down large-scale riots and disturbances instigated by an outside power (art. I). Article II, therefore, seeks to stimulate positive action to defeat the erosive devices which international communism has utilized to destroy the freedom and independence of nations.

Under article III the parties agree to cooperate in developing economic measures, including technical assistance, designed to promote their economic progress and social well-being. This is accompanied by an undertaking to strengthen the parties' free institutions. No comparable provision appears in any of the previous defense treaties. It is founded upon the conviction that if the free nations can develop their internal stability through economic cooperation, the ground for Communist penetration will be rendered less fertile. However, the article does not commit the United States to a specific aid program, nor does it preclude continued economic cooperation with any country whose economic welfare is important to our own well-being and the stability of the treaty area.

5. OBLIGATIONS UNDER ARTICLE IV

Article IV contains the activating, operative core of the treaty. Paragraph 1 corresponds generally to article III of the Korean Treaty and article V of the Philippine and Australia-New Zealand Treaties in the recognition by each party that—"aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety."

In such circumstance, each signatory agrees that—"it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations."

The obligation of the United States under article IV, paragraph 1, is limited by virtue of an understanding in the treaty to a Communist armed attack. A significant difference and the Australia-New Zealand pacts, and the Southeast Asia Treaty in this respect: article V of the first two treaties is limited in its application to an armed attack—"on the metropolitan territory of any of the parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific."

On the other hand, article IV of the treaty now being considered extends to what is described in the instrument as "the treaty area" (art. VIII), which is dealt with in more detail below. This "treaty area" may be enlarged by the unanimous agreement of the parties.

Paragraph 2 of article IV incorporates the language of article 6 of the Inter-American Treaty of Reciprocal Assistance signed at Rio de Janeiro in 1947. Paragraph 2 is worded as follows:

"If, in the opinion of any of the Parties, the inviolability or the integrity of the territory or the sovereignty or political independence of any Party in the treaty area or of any other State or territory to which the provisions of paragraph 1 of this Article from time to time apply is threatened in any way other than by armed attack or is affected or threatened by any fact or situation which might endanger the peace of the area, the Parties shall consult immediately in order to agree on the measures which should be taken for the common defense."

Article IV then concludes with a third paragraph specifically precluding any action on the territory of any state designated by unanimous agreement under paragraph 1 thereof except at the invitation or by consent of the government concerned.

It will be observed that the obligation of the parties under paragraph 2 of this article is not comparable to the obligation contained in paragraph 1. The latter contains an undertaking to "act to meet the common danger" through each government's constitutional processes, in case of an armed attack within the purview of the treaty. But if the threat to territorial integrity or political independence arises from something other than an armed attack (i.e., subversion), the only obligation of the parties is to "consult" with each other on the measures which should be taken for the common defense. There is no requirement for reporting such measures to the Security Council as under paragraph 1.

6. OTHER PROVISIONS

By article V of the treaty, a Council is estabilshed on which each party is represented, to consider matters pertaining to implementation of the treaty and to consult on any military or other planning which might be required by the situation prevailing in the treaty area.

Article VI records the declaration of the parties that the Southeast Asia Treaty shall not be construed as affecting the rights and obligations of the parties under the Charter of the United Nations, or the responsibility of that body for maintaining international peace and security. Each signatory likewise declares it is not party to any other instrument in force which would conflict with this treaty, and further undertakes not to enter any future engagement which would be inconsistent therewith.

Article VII provides for accession to the treaty by third states which might be in position to advance its objectives and contribute to the security of the area described. Such accession is effected by an invitation extended only with the unanimous agreement of the parties.

Article VIII defines the "treaty area" to which the obligations of the parties apply as the general area of southeast Asia, including the entire territories of the Asian parties, and the general area of the southwest Pacific, not including the Pacific area north of 21 degrees 30 minutes north latitude. It provides also for amendment of the treaty area by unanimous agreement. This element of flexibility again differentiates the treaty from other defense treaties in the Pacific.

Article IX designates the Government of the Philippines as depository of the treaty and declares that ratification of the instrument and the execution of its provisions shall be in accordance with the parties' constitutional process.

Under article X the treaty is to remain in force indefinitely, subject to a right of denunciation by any party effective 1 year after notice has been given to the Philippine Government.

Finally, there is embodied in the text of the treaty itself an understanding, which binds all signatories, that only in the case of a Communist armed attack will the obligation of the United States under article IV, paragraph 1, come into effect.

7. SCOPE OF THE UNITED STATES COMMITMENT: THE TREATY UNDERSTANDING

The obligation of the United States to take action in the event of an armed attack in the treaty area or against any duly designated State or territory is qualified by the understanding referred to above, which is worded as follows:

"The United States of America in executing the present treaty does so with the understanding that its recognition of the effect of aggression and armed attack and its agreement with reference thereto in Article IV, paragraph 1, apply only to communist aggression but affirms that in the event of other aggression or armed attack it will consult under the provisions of Article IV, paragraph 2."

In other terms, the only armed aggression which the United States declares, under this treaty, to be dangerous to its own peace and safety would be a Communist aggressing. During the Manila Conference there was considerable discussion whether the treaty as a whole should be directed exclusively against such aggression, or whether it should deal with any type of aggression. Other countries were unwilling to limit the treaty as advocated by the United States, and the issue was resolved by including in the text of the treaty the declaration of understanding quoted above. The understanding reflects the special position of the United States as the only treaty member which does not have any territory of its own in the protected area. It also establishes that our concern with that area is not primarily with local quarrels, but with the spread of international communism as a threat to the United States and the rest of the free world.

For the remaining signatories, however, the treaty deals with any and all acts of aggression which might disturb the peace of the area, and in such cases the United States agrees to consult with the other parties as provided for in paragraph 2 of article IV.

8. APPLICATION OF THE TREATY TO SUBVERSIVE ACTS

The threat of Communist subversion of free governments was first formally recognized in treaty terms in the security pact with Japan, signed on September 8, 1951. That pact provided that United States forces could be utilized for "assistance given at the express request of the Japanese Government to put down large-scale riots and disturbances in Japan, caused through instigation or intervention by an outside power or powers."

The committee report on the treaty (Ex. Rept. No. 2, 82d Cong., 2d sess., February 14, 1952) noted that—"this right to act against foreign-inspired insurrection is essential to the security of United States forces in Japan and of Japan itself."

The problem of Communist subversion is dealt with more explicitly in the Southeast Asia Collective Defense Treaty.

As previously noted, article II requires the parties to maintain and develop their capacity to resist subversive activities directed from without against their territorial integrity and political stability. This injunction is followed by an undertaking of the parties to consult together on the measures necessary to meet threats of that kind as well as any fact or situation other than an armed attack which might endanger the peace of the area (art. IV, par. 2).

The threat of subversion has been particularly acute in the region of southeast Asia where the Communists have attempted in several countries to capture revolutionary or anticolonial movements. The case of the Viet Minh is an instance where they succeeded. The Huk revolution in the Philippines was suppressed, but Communist subversion in Malaya and the threat in Thailand present problems which cannot be ignored.

The committee believes that it is necessary to include a provision of this kind in the treaty. Since the end of World War II the threat to the free world has come more often in the form of indirect subversion than in direct aggression, and freedom lost by subversion may be as difficult to retrieve as that lost by force.

The obligation of the parties to "consult immediately in order to agree on the measures which should be taken for the common defense" under article IV, paragraph 2, was clarified by Secretary Dulles in these terms:

"If there is a revolutionary movement in Vietnam or in Thailand, we would consult

together as to what to do about it, because if that were a subversive movement that was in fact propagated by communism, it would be a very grave threat to us. But we have no undertaking to put it down; all we have is an undertaking to consult together as to what to do about it."

In response to further questioning by the committee, the Secretary gave assurances that if any action were to be taken as the result of such consultation it would be in accordance with our constitutional processes.

When Secretary Dulles testified before the committee in November 1954, he expressed the hope that there would be an early meeting of the signatories "at which we will begin to think of ways and means that might be made available to combat this threat of subversion." Such a meeting has now been scheduled for February 23, 1955.

9. DIFFERENCES BETWEEN NATO AND THE SOUTHEAST ASIA TREATY

A number of significant differences exist between the present security pact and the North Atlantic Treaty Organization. The two treaties differ substantially both in their structural approach to defense against aggression, and in the principles which condition the obligations of the United States to act.

To begin with, the Southeast Asia Treaty does not contemplate anything like a joint military force with a joint headquarters. There has been an unfortunate tendency in some quarters to refer to this treaty as SEATO, which immediately conjures up the image of an organization similar to the North Atlantic Treaty Organization (NATO). During the hearings Secretary Dulles took pains to negate any such implication in the present treaty. Pointing out that NATO, in the case of the North Atlantic Treaty, was designed to build up a defensive force on the continent of Europe which itself would be sufficient to resist attack by the Red armies, the Secretary added:

"We do not intend to dedicate any major elements of the United States Military Establishment to form an army of defense in this area. We rely primarily upon the deterrent of our mobile striking power. That we made clear to our associates in the treaty and that is our policy.

"It would involve, in the opinion of our military advisers * * * an injudicious overextension of our military power if we were to try to build up that kind of an organization in southeast Asia.

"We do not have the adequate forces to do it, and I believe that if there should be open armed attack in that area the most effective step would be to strike at the source of aggression rather than to try to rush American manpower into the area to try to fight a ground war."

As noted previously, another distinguishing feature of the treaty is that it includes a provision of major importance against subversive attempts by international communism to destroy the territorial integrity or political independence of any party to the treaty. In this respect the treaty also differs from prior security pacts in the Pacific.

10. THE "MONROE DOCTRINE" FORMULA

More fundamental than either of these differences is the employment in the Southeast Asia Treaty of what Secretary Dulles has called the Monroe Doctrine formula, as distinct from the more far-reaching commitment contained in the North Atlantic Treaty. In article IV, paragraph 1, of the Southeast Asia Treaty, as in article III of the Korean Treaty and article IV of the Philippine and Australia-New Zealand pacts, each party recognizes that the armed attack referred to therein "would endanger its own peace and safety" and agrees to meet the common danger in accordance with its constitutional processes. By contrast, the North Atlantic Treaty had incorporated the principle that an attack upon one is tantamount to an attack upon all the other parties. Under this concept even if an attack were not one made against the territory of the United States itself, such an attack would nevertheless be so regarded. The provision gave rise to an extensive constitutional debate in the Senate, centering around the effect it might have on the President's powers to involve this country in warfare without the approval of Congress.

Because of that constitutional controversy, Secretary Dulles believed it preferable to adopt President Monroe's language when he announced in 1823 that any extension of the European system to this hemisphere would be considered by the United States as dangerous to our peace and safety. The formula was therefore used by Mr. Dulles when he negotiated the three earlier Pacific defense treaties. In his view—"the practical difference between the two [approaches] from the standpoint of * * * giving security to the other parties was not appreciable, and *** it was better to avoid a formula which would reopen the constitutional debate *** as to the relative powers of the President and the Congress under these different formulas."

In its report on the Korean Defense Treaty (Ex. A, 83d Cong., 2d sess.), the committee noted that the Monroe Doctrine formula—"permits the United States to take any action we deem appropriate by our constitutional processes, and gives adequate assurance of support to the other country which may be the victim of an attack. It has the additional advantage of never having been challenged throughout our history, from the constitutional standpoint, as altering the balance of power between the President and Congress."

These observations apply with equal relevance to the Southeast Asia Treaty.

11. RELATIONSHIP TO THE UNITED NATIONS

The relationship of the Southeast Asia Collective Defense Treaty to the United Nations Charter is determined by four references in the treaty.

In the preamble, the parties reiterate their faith in the charter of the United Nations and the principle of equal rights and self-determination of peoples. Similar provisions are contained in the mutual defense treaties concluded with other Pacific nations.

By article I—

"The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations."

This provision is similar to articles in the Philippines, Australia-New Zealand, and Korean treaties. It reaffirms the United Nations Charter obligations of the signatories of the pending treaty, but in no way either enlarges or diminishes our obligations thereunder. When questioned on the point, the Secretary declared:

"I can say categorically, sir, that in my opinion this neither adds one jot or tittle nor subtracts one jot or tittle, from our objective as expressed in the Charter of the United Nations."

The most important reference to the United Nations Charter is in article IV, paragraph 1, which obliges the parties to meet a common danger in the treaty area in accordance with their constitutional processes. The paragraph then says:

"Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations."

This language relates the treaty directly to article 51 of the United Nations Charter which provides:

"Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."

Similar references to the United Nations Charter are to be found in the treaties with the Philippines, and with Australia and New Zealand.

Discussing this article before the committee, Secretary Dulles emphasized that it was not founded upon the clauses in article 52 of the charter concerning regional arrangements:

"It would say * * * that it comes under the collective security provisions of article 51 rather than the regional provisions of article 52. Article 51 is a provision that nothing contained in the charter shall deprive any of the states from the individual or collective right of self-defense. That is the provision we are operating under rather than the regional provision, one reason being that under a regional organization, no enforcement measures can be taken without the prior approval of the Security Council, where the Soviet Union has a veto, and we would not want to have an organization where action could be vetoed by the Soviet Union."

In other words, tying the treaty to article 51 of the charter obligates the United States and the other parties to report certain activities under the treaty to the Security Council. It does not, however, require the parties to await the prior approval of that Council before taking action. The committee and the Senate, when they approved the earlier defense treaties in the Pacific area, accepted this relationship between article 51 of the charter and the mutual defense treaties.

In a final reference to the United Nations Charter (in art. VI) the parties expressly declare that the present treaty does not and shall not be interpreted as affecting in any way their obligations under that document. This again corresponds to similar articles in the Australia-New Zealand, and the Philippine treaties.

12. THE TREATY AREA

As noted earlier in this report, the general pattern of the Southeast Asia Treaty is similar to the other defense pacts the United States has concluded in the Pacific, apart from several differences which have been underscored. Another innovation of the treaty consists in the flexibility of the region subject to protection. The treaty starts out with a geographical delineation embracing most of the territory of the signatories and the Pacific Ocean area south of 21 degrees 30 minues—i. e., a line running north of the Philippines. Although some of the parties do have territories north of that line, it was felt that inclusion of these would not be desirable. Broadly speaking, the basic area involved comprises Pakistan; Thailand; Laos, the Free Territory of Vietnam and Cambodia (by protocol); Malaya; Australia and New Zealand; and the Philippines. Hong Kong is excluded because of the limiting clause even though the United Kingdom is a party.

On the other hand, it has already been observed that article VIII, after defining the geographical zone of application, contemplates the possibility of enlargement or modification of the treaty area by future unanimous agreement of the parties. Such action has in fact been take in the protocol which accompanies the present treaty.

13. THE PROTOCOL TO THE TREATY

By a protocol signed on the same date as the treaty, the treaty area was further defined so as to bring in Loas, Cambodia, and the Free Territory of Vietnam as areas which, if attacked, would fall under the protection of the instrument. It was hoped that by this action, aggression against these states might be deterred. None of these countries is a party to the Manila pact because, after the Geneva armistice agreements on Indochina, a question was raised as to whether the Associated States could properly join such a pact. Since the provisions of the armistice are complicated and in certain respects rather ambiguous, some of the parties thereto thought it would not be desirable to raise that question at a time when the armistice was still in the process of being carried out. However, the Associated States concluded that whether or not they ever became parties to the treaty, they would be pleased to have its mantle of protection thrown over them.

14. UNANIMOUS AGREEMENT REQUIRED TO ENLARGE TREATY COVERAGE

Provision is made in three articles of the treaty for modification of its terms by unanimous agreement. Thus, article IV, paragraph 1, as well as article VII, contemplates that the treaty area may be extended by the parties to any state or territory "which the parties by unanimous agreement may hereafter designate." Article VII refers to the accession of additional states "by unanimous agreement of the parties." To avoid the possibility of any misunderstanding on the significance of this clause, the president informed the Senate that the provisions with respect to designation of new territories and membership are to be construed as requiring the Senate's advice and consent. In other words, it is not enough that the executive branch should acquiesce in the addition of now members or in the modification of the treaty area, but these matters must also be brought before the Senate.

The point was reemphasized during the hearings. Speaking of the addition of new members, Mr. Dulles said:

"I would assume that the same practice would prevail here as prevails with relation to the North Atlantic Treaty. The language is the same, and it was agreed between the Executive and the Senate at the time of the North Atlantic Treaty that if additional states came in that would require an amendment of the treaty or a protocol to the treaty, on which the advice and consent of the Senate would be sought.

"We would interpret this language in the same way that similar language in the North Atlantic Treaty is interpreted, namely, as requiring Senate action in that event."

15. CONSTITUTIONAL PROCESSES

In the course of the hearings on January 13, the committee gave consideration to a suggestion by one of the witnesses that a reservation be attached to the treaty which would prohibit the use of United States ground, air, or naval forces in any defense action unless Congress, by a declaration of war, consented to their use against Communist aggression. "This proposal led to a searching discussion in executive session. It was finally rejected as throwing open the entire controversial topic of the relative orbit of power between the executive and the legislative branches. It had been for this very reason, as noted above, that the executive branch adopted the "constitutional processes" formula. When pressed for an indication of what the phrase comported, Mr. Dulles assured the committee that those words were used with the understanding that the President would come to Congress in case of any threat of danger—

"Unless the emergency were so great that prompt action was necessary to save a vital interest of the United States."

Except in that event—

"The normal process would be to act through Congress if it were in session, and if not in session to call Congress."

The committee ultimately resolved that it would serve no useful purpose to seek to develop the meaning of "constitutional processes" beyond this statement of Mr. Dulles. In that connection, it is recalled that the committee, referring to the use of the same phrase in the North Atlantic Treaty, observed in its report:

"The treaty in no way affects the basic division of authority between the President and the Congress as defined in the Constitution. In no way does it alter the constitutional relationship between them. In particular, it does not increase, decrease, or change the power of the President as Commander in Chief of the Armed Forces or impair the full authority of Congress to declare war." (Ex. Rept. No. 8, 81st Cong., 1st sess.).

16. MUTUAL SECURITY ASSISTANCE

Article II of the treaty pledges the parties to develop their individual and collective capacity to resist armed attack. By article III they agree to strengthen their free institutions and promote economic progress and social well-being in their areas.

This language directed the committee's attention to the relationship between the treaty and the Mutual Security Act of 1954 under which $700 million was appropriated for expenses necessary for the support of the forces of nations in the area of southeast Asia and for other expenditures to accomplish the policies and purposes declared in the act. Development and technical assistance of lesser amounts were also provided in the act.

In his report to the President, the Secretary wrote with reference to article III that it "does not commit the United States to any grant program." The committee wishes to confirm this assurance. The treaty places no moral or legal obligation on the United States to give vast sums of military, economic or technical assistance to nations in the area. The Mutual Security Act of 1954 and future authorizations of such nature are to be presented on their own merits and must be justified by a judgment of the Congress as to what action may be in our national interest at the time.

The committee inquired into possible future aid programs. It was informed that the scope and nature of these programs have not been decided and await a report of General Collins on the situation in the Associated States of Indochina. In this connection, the committee invites the attention of the Senate to the following statement by the Secretary of State:

"As I said at a press conference * * * the possibility of usefully spending vast sums of economic money in this area has not been demonstrated.

* * * * *

"In this part of the world the problem is to create something that is totally new, and I am inclined to think that while the problem certainly needs our very best thought, the finding of ways and means to help is the most important first thing. The problem needs to be tackled first from that standpoint rather than the standpoint of first appropriating vast sums of money and then trying to think later on how it can be spent with advantage."

17. OUR MILITARY COMMITMENT

The committee, conscious of our other treaty obligations in the Pacific which, if the present treaty and protocol are ratified, will encompass 12 other nations, was concerned lest the United States might be overextending itself. It raised this question with the Secretary of State by asking for information concerning possible plans to create local defensive forces in the area. For the information of the Senate, his full statement on that question is reprinted here.

"It is not the policy of the United States to attempt to deter attack in his area by building up a local force capable itself of defense against an all-out attack by the Chinese Communists if it should occur. We do not expect to duplicate in this area the pattern of the North Atlantic Treaty Organization and its significant standing forces. That would require a diversion and commitment of strength which we do not think is either practical or desirable or necessary from the standpoint of the United States.

"We believe that our posture in that area should be one of having mobile striking power, and the ability to use that against the sources of aggression if it occurs. We believe that is more effective than if we tried to pin down American forces at the many points around the circumference of the Communist world in that area.

"It may very well be that other countries of the area will want to dedicate particular forces for the protection of the area under this treaty. But we made clear at Manila that it was not the intention of the United States to build up a large local force including, for example, United States ground troops for that area, but that we rely upon the deterrent power of our mobile striking force."

18. THE PACIFIC CHARTER

At the same time the treaty and protocol were negotiated at Manila, the governments there represented drew up and signed a declaration known as the Pacific Charter. This was a proclamation of general principles and ideals by the delegates to the conference expressing their deep interest in the further development of freedom and independence in the area.

In spirit, the Pacific Charter is not unlike the Atlantic Charter of 1942 in which the postwar aims of the allied powers were set forth. Appealing to the "highest principles of justice and liberty", the delegates to the Manila Conference proclaimed that they "uphold the principle of equal rights and self-determination of peoples" and would earnestly "strive to promote self-government and to secure the independence of all countries whose peoples desire it and are able to undertake its responsibilities." The charter proclaims further that the delegates of the governments represented were each prepared "to continue taking effective practical measures to ensure conditions favorable to the orderly achievement" of these purposes. They stated that they would continue "to cooperate in the economic, social and cultural fields in order to promote higher living standards, economic progress and social well-being in this region"; and were determined "to prevent or counter * * * any attempt in the treaty area to subvert their freedom or to destroy their sovereignty or territorial integrity."

The Pacific Charter grew out of a suggestion by President Magsaysay of the Philippines who felt that it would be helpful to have the delegates proclaim the fundamental principles summarized above and the intentions and purposes which motivated them. It does not contain anything to which the United States has not frequently subscribed in past international instruments.

By this proclamation the Asiatic peoples are assured of the acceptance by the delegates to the conference of the common ultimate aim of self-determination and self-government for all areas in Asia.

19. NEED FOR EARLY RATIFICATION

The President transmitted the treaty and protocol to the Senate on November 10, 1954,

with a request for "early and favorable consideration." At a hearing held on November 11, Secretary of State Dulles stressed the uncertainties in the treaty area and suggested that early approval by the Senate might be expected to promote stability in the region concerned.

The need for prompt ratification remains urgent. On January 3, 1955, the Department of State announced that the Foreign Ministers of the Southeast Asia Collective Defense Treaty powers had agreed to meet on February 23 in Bangkok at the invitation of the Government of Thailand. The announcement stated that—

"The purpose of the meeting will be to consider arrangements for the implementation of the Manila Treaty and to exchange views on matters affecting the peace and security of the treaty area."

Although the proposed meeting need not await the entry into force of the treaty it would be helpful if all signatories had ratified by that time. The chances for this are good. Thailand has deposited its ratification and the United Kingdom, Australia and New Zealand have completed parliamentary action but not yet consummated the formalities of ratification. In France and Pakistan, parliamentary action is not expected to be necessary. The Republic of the Philippines expects to consider the treaty shortly after its Congress reconvenes on January 24.

More important than the technical desirability of bringing the treaty into force by the February 23 meeting would be the psychological impact of prompt action. It would demonstrate to the nations of South Asia the seriousness of our purposes and intentions. Such a show of unity would also buttress the conviction of the treaty powers that they can work harmoniously together on problems affecting the southeast Asia area.

The general exposure of the area to the threat of communism, both internal and external, makes it doubly important and urgent that we and our partners to this treaty discuss measures for giving early effect to its provisions.

20. CONCLUSIONS

It is the committee's view that the Manila pact constitutes a considerable accomplishment in bringing together a group of eight countries of divergent religious, racial and political backgrounds, in a common resolve to defend their freedom against the menace of international communism. By strengthening that resolve the United States will make a substantial contribution to the preservation of free governments and to the defense of its own security.

The principle underlying this treaty is that advance notice of our intentions and the intentions of the nations associated with us may serve to deter potential aggressors from reckless action that could plunge the Pacific into war. To that end, the treaty makes it clear that the United States will not remain indifferent to conduct threatening the peace of Southeast Asia.

Until now, our protective system in the Pacific area has been predicated upon a group of treaties of a bilateral and trilateral character. The Southeast Asia treaty is a long step toward a more comprehensive, collective security arrangement which has been regarded as desirable by the administration and the committee.

The committee is not impervious to the risks which this treaty entails. It fully appreciates that acceptance of these additional obligations commits the United States to a course of action over a vast expanse of the Pacific. Yet these risks are consistent with our own highest interests. There are greater hazards in not advising a potential enemy of what he can expect of us, and in failing to disabuse him of assumptions which might lead to a miscalculation of our intentions.

For these reasons, the Committee on Foreign Relations urges the Senate to give its advise and consent to the ratification of this treaty.

APPENDIX: SOUTHEAST ASIA COLLECTIVE DEFENSE TREATY

The Parties to this Treaty,

Recognizing the sovereign equality of all Parties,

Reiterating their faith in the purposes and principles set forth in the Charter of the United Nations and their desire to live in peace with all peoples and all governments,

Reaffirming that, in accordance with the Charter of the United Nations, they uphold the principle of equal rights and self-determination of peoples, and declaring that they will earnestly strive by every peaceful means to promote self-government and to secure the independence of all countries whose peoples desire it and are able to undertake its responsibilities,

Desiring to strengthen the fabric of peace and freedom and to uphold the principles of democracy, individual liberty and the rule of law, and to promote the economic well-being and development of all peoples in the treaty area,

Intending to declare publicly and formally their sense of unity, so that any potential aggresor will appreciate that the Parties stand together in the area, and

Desiring further to coordinate their efforts for collective defense for the preservation of peace and security,

Therefore agree as follows:

ARTCLE I

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered, and to refrain in their international relations from the theat or use of force in any manner inconsistent with the purposes of the United Nations.

ARTICLE II

In order more effectively to achieve the objectives of this Treaty the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack and to prevent and counter subversive activities directed from without against their territorial integrity and political stability.

ARTICLE III

The Parties undertake to strengthen their free institutions and to cooperate with one another in the further development of economic measures, including technical assistance, designed both to promote economic progress and social well-being and to further the individual and collective efforts of governments toward these ends.

ARTICLE IV

1. Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations.

2. If, in the opinion of any of the Parties, the inviolability or the integrity of the territory or the sovereignty or political independence of any Party in the treaty area or of any other State or territory to which the provisions of paragraph 1 of this Article from time to time apply is threatened in any way other than by armed attack or is affected or threatened by any fact or situation which might endanger the peace of the area, the Parties shall consult immediately in order to agree on the measures which should be taken for the common defense.

3. It is understood that no action on the territory of any State designated by unanimous agreement under paragraph 1 of this Article or on any territory so designated shall be taken except at the invitation or with the consent of the government concerned.

ARTICLE V

The Parties hereby establish a Council, on which each of them shall be represented, to consider matters concerning the implementation of this Treaty. The Council shall provide for consultation with regard to military and any other planning as the situation obtaining in the treaty area may from time to time require. The Council shall be so organized as to be able to meet at any time.

ARTICLE VI

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of any of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security. Each Party declares that none of the international engagements now in force between it and any other of the Parties or any third party is in conflict with the provisions of this Treaty, and undertakes not to enter into any international engagement in conflict with this Treaty.

ARTICLE VII

Any other State in a position to further the objectives of this Treaty and to contribute to the security of the area may, by unanimous agreement of the Parties, be invited to accede to this Treaty. Any State so invited may become a Party to the Treaty by depositing its instrument of accession with the Government of the Republic of the Philippines. The Government of the Republic of the Philippines shall inform each of the Parties of the deposit of each such instrument of accession.

ARTICLE VIII

As used in this Treaty, the "treaty area" is the general area of Southeast Asia, including also the entire territories of the Asian Parties, and the general area of the Southwest Pacific not including the Pacific area north of 21 degrees 30 minutes north latitude. The Parties may, by unanimous agreement, amend this Article to include within the treaty area the territory of any State acceding to this Treaty in accordance with Article VII or otherwise to change the treaty area.

ARTICLE IX

1. This Treaty shall be deposited in the archives of the Government of the Republic of the Philippines. Duly certified copies thereof shall be transmitted by that government to the other signatories.

2. The Treaty shall be ratified and its provisions carried out by the Parties in accordance with their respective constitutional processes. The instruments of ratification shall be deposited as soon as possible with the Government of the Republic of the Philippines, which shall notify all of the other signatories of such deposit.

3. The Treaty shall enter into force between the States which have ratified it as soon as the instruments of ratification of a majority of the signatories shall have been deposited, and shall come into effect with respect to each other State on the date of the deposit of its instrument of ratification.

ARTICLE X

This Treaty shall remain in force indefinitely, but any Party may cease to be a Party one year after its notice of denunciation has been given to the Government of the Republic of the Philippines, which shall inform

the Governments of the other Parties of the deposit of each notice of denunciation.

ARTICLE XI

The English text of this Treaty is binding on the Parties, but when the Parties have agreed to the French text thereof and have so notified the Government of the Republic of the Philippines, the French text shall be equally authentic and binding on the Parties.

UNDERSTANDING OF THE UNITED STATES OF AMERICA

The United States of America in executing the present Treaty does so with the understanding that its recognition of the effect of aggression and armed attack and its agreement with reference thereto in Article IV, paragraph 1, apply only to communist aggression but affirms that in the event of other aggression or armed attack it will consult under the provisions of Article IV, paragraph 2.

In witness whereof, the undersigned Plenipotentiaries have signed this Treaty.

Done at Manila, this eighth day of September, 1954.

For Australia:
R. G. CASEY
For France:
G. LA CHAMBRE
For New Zealand:
CLIFTON WEBB
For Pakistan:

Signed for transmission to my Government for its consideration and action in accordance with the Constitution of Pakistan.

ZAFRULLA KHAN
For the Republic of the Philippines:
CARLOS P. GARCIA
FRANCISCO A. DELGADO
TOMAS L. CABILI
LORENZO M. TAÑADA
CORNELIO T. VILLAREAL
For the Kingdom of Thailand:
WAN WAITHAYAKON KROMMUN NARADHIP BONGSPRABANDH
For the United Kingdom of Great Britain and Northern Ireland:
READING
For the United States of America:
JOHN FOSTER DULLES
H. ALEXANDER SMITH
MICHAEL J. MANSFIELD

I CERTIFY THAT the foregoing is a true copy of the Southeast Asia Collective Defense Treaty concluded and signed in the English language at Manila, on September 8, 1954, the signed original of which is deposited in the archives of the Government of the Republic of the Philippines.

IN TESTIMONY WHEREOF, I, RAUL S. MANGLAPUS, Undersecretary of Foreign Affairs of the Republic of the Philippines, have hereunto set my hand and caused the seal of the Department of Foreign Affairs to be affixed at the City of Manila, this 14th day of October, 1954.

[SEAL] Raul S. Manglapus
RAUL S. MANGLAPUS,
Undersecretary of Foreign Affairs.

PROTOCOL TO THE SOUTHEAST ASIA COLLECTIVE DEFENSE TREATY: DESIGNATION OF STATES AND TERRITORY AS TO WHICH PROVISIONS OF ARTICLE IV AND ARTICLE III ARE TO BE APPLICABLE

The Parties to the Southeast Asia Collective Defense Treaty unanimously designate for the purposes of Article IV of the Treaty the States of Cambodia and Laos and the free territory under the jurisdiction of the State of Vietnam,

The Parties further agree that the above mentioned states and territory shall be eligible in respect of the economic measures contemplated by Article III.

This Protocol shall enter into force simultaneously with the coming into force of the Treaty.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Protocol to the Southeast Asia Collective Defense Treaty.

Done at Manila, this eighth day of September, 1954.

For Australia:
R. G. CASEY
For France:
G. LA CHAMBRE
For New Zealand:
CLIFTON WEBB
For Pakistan:

Signed for transmission to my Government for its consideration and action in accordance with the Constitution of Pakistan.

ZAFRULLA KHAN
For the Republic of the Philippines:
CARLOS P. GARCIA
FRANCISCO A. DELGADO
TOMAS L. CABILI
LORENZO M. TANADA
CORNELIO T. VILLAREAL
For the Kingdom of Thailand:
WAN WAITHAYAKON KROMMUN NARADHIP BONGSPRABANDH
For the United Kingdom of Great Britain and Northern Ireland:
READING
For the United States of America:
JOHN FOSTER DULLES
H. ALEXANDER SMITH
MICHAEL J. MANSFIELD

I CERTIFY THAT the foregoing is a true copy of the Protocol to the Southeast Asia Collective Defense Treaty concluded and signed in the English language at Manila, on September 8, 1954, the signed original of which is deposited in the archives of the Government of the Philippines.

IN TESTIMONY WHEREOF, I RAUL S. MANGLAPUS, Undersecretary of Foreign Affairs of the Republic of the Philippines, have hereunto set my hand and caused the seal of the Department of Foreign Affairs to be affixed at the City of Manila, this 14th day of October, 1954.

[SEAL] Raul S. Manglapus
RAUL S. MANGLAPUS,
Undersecretary of Foreign Affairs.

[4. President Johnson's message to Congress on the Tonkin Gulf resolution]

THE PRESIDENT'S MESSAGE

(On August 4 and 5 the President consulted with congressional leaders, both before and after the limited military retaliation directed against North Vietnam. On August 5, 1964, he sent the following message to Congress:)

To the Congress of the United States:

Last night I announced to the American people that the North Vietnamese regime had conducted further deliberate attacks against U.S. naval vessels operating in international waters, and that I had therefore directed air action against gunboats and supporting facilities used in these hostile operations. This air action has now been carried out with substantial damage to the boats and facilities. Two U.S. aircraft were lost in the action.

After consultation with the leaders of both parties in the Congress, I further announced a decision to ask the Congress for a resolution expressing the unity and determination of the United States in supporting freedom and in protecting peace in southeast Asia.

These latest actions of the North Vietnamese regime have given a new and grave turn to the already serious situation in southeast Asia. Our commitments in that area are well known to the Congress. They were first made in 1954 by President Eisenhower. They were further defined in the Southeast Asia Collective Defense Treaty approved by the Senate in February 1955.

This treaty with its accompanying protocol obligates the United States and other members to act in accordance with their constitutional processes to meet Communist aggression against any of the parties or protocol states.

Our policy in southeast Asia has been consistent and unchanged since 1954. I summarized it on June 2 in four simple propositions:

1. America keeps her word. Here as elsewhere, we must and shall honor our commitments.

2. The issue is the future of southeast Asia as a whole. A threat to any nation in that region is a threat to all, and a threat to us.

3. Our purpose is peace. We have no military, political, or territorial ambitions in the area.

4. This is not just a jungle war, but a struggle for freedom on every front of human activity. Our military and economic assistance to South Vietnam and Laos in particular has the purpose of helping these countries to repel aggression and strengthen their independence.

The threat to the free nations of southeast Asia has long been clear. The North Vietnamese regime has constantly sought to take over South Vietnam and Laos. This Communist regime has violated the Geneva accords for Vietnam. It has systematically conducted a campaign of subversion, which includes the direction, training, and supply of personnel and arms for the conduct of guerrilla warfare in South Vietnamese territory. In Laos, the North Vietnamese regime has maintained military forces, used Laotian territory for infiltration into South Vietnam, and most recently carried out combat operations—all in direct violation of the Geneva agreements of 1962.

In recent months, the actions of the North Vietnamese regime have become steadily more threatening. In May, following new acts of Communist aggression in Laos, the United States undertook reconnaissance flights over Laotian territory, at the request of the Government of Laos. These flights had the essential mission of determining the situation in territory where Communist forces were preventing inspection by the International Control Commission. When the Communists attacked these aircraft, I responded by furnishing escort fighters with instructions to fire when fired upon. Thus, these latest North Vietnamese attacks on our naval vessels are not the first direct attack on Armed Forces of the United States.

As President of the United States I have concluded that I should now ask the Congress, on its part, to join in affirming the national determination that all such attacks will be met, and that the United States will continue in its basic policy of assisting the free nations of the area to defend their freedom.

As I have repeatedly made clear, the United States intends no rashness, and seeks no wider war. We must make it clear to all that the United States is united in its determination to bring about the end of Communist subversion and aggression in the area. We seek the full and effective restoration of the international agreements signed in Geneva in 1954, with respect to South Vietnam, and again at Geneva in 1962, with respect to Laos.

I recommend a resolution expressing the support of the Congress for all necessary action to protect our Armed Forces and to assist nations covered by the SEATO Treaty. At the same time, I assure the Congress that we shall continue readily to explore any avenues of political solution that will effectively guarantee the removal of Communist subversion and the preservation of the independence of the nations of the area.

The resolution could well be based upon similar resolutions enacted by the Congress in the past—to meet the threat to Formosa in 1955, to meet the threat to the Middle East in 1957, and to meet the threat in Cuba in 1962. It could state in the simplest terms the resolve aand support of the Congress for action to deal appropriately with attacks against our Armed Forces and to defend freedom and preserve peace in southeast Asia in accordance with the obligations of the United

States under the Southeast Asia Treaty. I urge the Congress to enact such a resolution promptly and thus to give convincing evidence to the aggressive Communist nations, and to the world as a whole, that our policy in southeast Asia will be carried forward—and that the peace and security of the area will be preserved.

The events of this week would in any event have made the passage of a congressional resolution essential. But there is an additional reason for doing so at a time when we are entering on 3 months of political campaigning. Hostile nations must understand that in such a period the United States will continue to protect its national interests, and that in these matters there is no division among us.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *August 5, 1964.*

[5. Excerpts from the report of the Foreign Relations Committee on the Tonkin Gulf resolution]

REPORT

[To accompany S.J. Res. 189]

The Committee on Foreign Relations and the Committee on Armed Services, hereinafter referred to as the "joint committee," having had under consideration Senate Joint Resolution 189 supporting the President's determination to repel any armed attack against U.S. forces in southeast Asia and to prevent further Communist attacks, report the resolution favorably and recommend that it be passed by the Senate.

PURPOSE OF THE RESOLUTION

The basic purpose of this resolution is to make it clear that the Congress approves the actions taken by the President to meet the attack on U.S. forces in southeast Asia by the Communist regime in North Vietnam. Full support by the Congress also is declared for the resolute policy enunciated by the President in order to prevent further aggression, or to retaliate with suitable measures should such aggression take place.

BACKGROUND

It should be stressed that the current conflict in the area of the Gulf of Tonkin occurs against the backdrop of a Communist-directed military and subversive offensive which has been sustained with little real interruption since 1946. In that year France resumed titular control over what was then Indochina from the Japanese wartime occupation and by year's end was under guerrilla attack by the Comunist-trained and supported Vietminh under the leadership of Ho Chi-minh. The latter organization gained much support throughout Indochina by reason of its ability to pose as a nationalist movement dedicated to ousting a colonial regime; few of the Indochinese rural areas were left untouched by Vietminh infiltration. For almost 8 years the French, at great cost—mitigated by about $2.5 billion of U.S. aid—fought what has been described as "the longest war of the 20th Century," until the disaster at Dien Bien Phu in May of 1954 led France to submit to armistice proposals to the Geneva Conference convened the previous month to discuss Korea and "peace in Indochina."

The Geneva armistice agreements, signed on July 21, 1954, theoretically ended the war between French Union forces and the Vietminh in Laos, Cambodia, and Vietnam, which were to become fully independent countries, with the last-named partitioned near the 17th parallel into two states pending reunification through "free elections." Yet the day after signature President Ho Chi-minh of North Vietnam was calling for a "continuation of the struggle." As Senator Mansfield noted after his visit to the area in September of that year:

"Vietminh sympathizers are to be found throughout that region [South Vietnam] and it is likely that their number is growing. It must also be presumed that Vietminh activists are being left behind as the Vietminh withdraw their regular forces * * *."

Such proved to be the case: there was scarcely any break in the long process of Communist-inspired subversion aimed at encouraging chaotic conditions in South Vietnam. This activity in itself constituted a violation of the intent of the Geneva agreements, although one difficult to detect and virtually impossible to document satisfactorily.

Since that time, the North Vietnamese campaign against the South has increased in scope and tempo. It has added a new dimension to traditional concepts of warfare and aggression—the dimension of subversion and terror on a planned, centrally directed, and coordinated basis. This new kind of aggression is not symbolized by armies marching across frontiers with bands playing and flags waving. But it is no less outrageous international behavior.

Another point should be made here. Of the participants at Geneva, South Vietnam and the United States alone did not sign the agreements (the other participants and signatories were the United Kingdom, the U.S.S.R., France, Communist China, Laos, Cambodia, and North Vietnam). South Vietnam merely declared its intention to seek peace through all means, and "* * * not to use force to resist the procedures for carrying the cease-fire into effect, although it deems them to be inconsistent with the will of the nation * * *"

The United States noted that it would not join in an arrangement which could have the effect of denying self-determination to the Vietnamese people. It nevertheless declared that—

"(i) it will refrain from the threat or the use of force to disturb them [the agreements], in accordance with article 2(4) of the Charter of the United Nations dealing with the obligation of members to refrain in their international relations from the threat or use of force; and (ii) it would view any renewal of the aggression in violation of the aforesaid agreements with grave concern and as seriously threatening international peace and security."

At the beginning of 1955 the United States began to fill the vacuum in the area created by the general but somewhat halting withdrawal of France from Vietnam. U.S. assistance was directly provided to South Vietnam, rather than through the French, and a small number of American military advisers took over the training of the Vietnamese Army from France.

At the same time, the Southeast Asia Collective Defense Treaty[1] came into effect—on February 19, 1955. This pact, described as a "comprehensive system of regional security in the Pacific area," was envisaged by the United States several years before its creation, but was especially sought by President Eisenhower and Secretary of State Dulles in March of 1954. In the words of the latter:

"The President and I had hoped that unity could be forged in time to strengthen the negotiating position of the free nations during the Indochina phase of the Geneva Conference. However, this proved impracticable.

"The Geneva outcome did, however, confirm the need for unity."

The deliberations which followed in September resulted in two particularly significant actions for the purposes of committee consideration of Senate Joint Resolution 189. First, an "Understanding of the United States of America" was made a part of the treaty to record the fact that this country would only take measures to meet military attack on a treaty member if it were Communist aggression, although it would follow the consultation process in other circumstances. Second, a protocol was added to the treaty to provide that Cambodia, Laos, and "the free territory under the jurisdiction of the State of Vietnam" would be covered by treaty articles III and IV; these read as follows:

"ARTICLE III

"The Parties undertake to strengthen their free institutions and to cooperate with one another in the further development of economic measures, including technical assistance, designed both to promote economic progress and social well-being and to further the individual and collective efforts of governments toward these ends.

"ARTICLE IV

"1. Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agree that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations.

"2. If, in the opinion of any of the Parties, the inviolability or the integrity of the territory or the sovereignty or political independence of any Party in the treaty area or of any other State or territory to which the provisions of paragraph 1 of this Article from time to time apply is threatened in any way other than by armed attack or is affected or threatened by any fact or situation which might endanger the peace of the area, the Parties shall consult immediately in order to agree on the measures which should be taken for the common defense.

"3. It is understood that no action on the territory of any State designated by unanimous agreement under paragraph 1 of this Article or on any territory so designated shall be taken except at the invitation or with the consent of the government concerned."

The period from 1955 to 1957 saw the South Vietnamese Government struggling valiantly under President Diem's leadership to create order out of near chaos. A substantial amount of progress was achieved, and it probably was a measure of that success that large-scale Communist guerrilla attacks began to occur at the beginning of 1958, reflecting a steady increase in such armed activity since Diem's visit to the United States in mid-1957 and the promise of continued help against communism. By 1960, North Vietnam was abandoning any subterfuge and was proclaiming itself the "revolutionary base" for the attacks on the South. It was in this context that the United States agreed to the South Vietnamese Government's request for increased assistance. Such aid has continuously expanded since that time, in large measure scaled to keep pace with the heightened North Vietnamese contributions to the guerrilla war. Some decrease or suspension of assistance took place in connection with the developments surrounding the fall of the Diem government in November 1963, but was resumed shortly thereafter. Just as North Vietnam's open involvement in the war has reached new levels, so has the U.S. provision of aid to the government of Maj. Gen. Nguyen Khanh formed last February. This aid has always been entirely defensive in character and the United States has taken no action outside the territory of South Vietnam.

CURRENT DEVELOPMENTS

It is against this background that the unprovoked attacks by North Vietnam on U.S. forces in international waters must be assessed. The joint committee believes that the

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[1] The SEATO members are Australia, France, New Zealand, Pakistan, the Philippines, Thailand, the United Kingdom, and the United States.

best means of describing these events is by quoting from the presentation of Ambassador Adlai E. Stevenson to the U.N. Security Council, convened at our request on August 5:

"At 8:08 a.m. Greenwich meridian time, August 2, 1964, the U.S. destroyer *Maddox* was on routine patrol in international waters in the Gulf of Tonkin, proceeding in a southeasterly direction away from the coast about 30 miles at sea from the mainland of North Vietnam.

"WARNING SHOTS FIRED

"The *Maddox* was approached by three high-speed North Vietnamese torpedo boats in attack formation. When it was evident that these torpedo boats intended to take offensive action, the *Maddox,* in accordance with naval practice, fired three warning shots across the bows of the approaching vessels.

"At approximately the same time, the aircraft carrier *Ticonderoga,* which was also in international waters and had been alerted to the impending attack, sent out four aircraft to provide cover for the *Maddox,* the pilots being under orders not to fire unless they or the *Maddox* was fired upon first.

"Two of the attacking craft fired torpedoes which the *Maddox* evaded by changing course. All three attacking vessels directed machinegun fire at the *Maddox.* One of the attacking vessels approached for close attack and was struck by fire from the *Maddox.* After the attack was broken off, the *Maddox* continued on a southerly course in international waters.

"Now, Mr. President, clearly this was a deliberate armed attack against a naval unit of the U.S. Government on patrol in the high seas—almost 30 miles off the mainland.

"HASTY RESPONSE AVOIDED

"Nevertheless, my Government did its utmost to minimize the explosive potential of this flagrant attack in the hopes that this might be an isolated or uncalculated action. There was local defensive fire. The United States was not drawn into hasty response.

"On August 3, the United States took steps to convey to the Hanoi regime a note calling attention to this aggression, stating that U.S. ships would continue to operate freely on the high seas in accordance with the rights guaranteed by international law, and warning the authorities in Hanoi of the 'grave consequences which would inevitably result from any further unprovoked offensive military action against U.S. forces.'

"This notification was in accordance with the provisions of the Geneva accords.

"Our hope that this was an isolated incident did not last long. At 2:35 p.m. Greenwich time, August 4, when it was nighttime in the Gulf of Tonkin, the destroyers *Maddox* and *C. Turner Joy* were again subjected to an armed attack by an undetermined number of motor torpedo boats of the North Vietnamese Navy.

"This time the American vessels were 65 miles from the shore, twice as far out on the high seas as on the occasion of the previous attack. This time, numerous torpedoes were fired. The attack lasted for over 2 hours.

"NO 'SHADOW OF DOUBT'

"There no longer could be any shadow of doubt that this was planned deliberate military aggression against vessels lawfully present in international waters. One could only conclude that this was the work of authorities dedicated to the use of force to achieve their objectives regardless of the consequences.

"My Government therefore determined to take positive but limited relevant measures to secure its naval units against further aggression. Last night aerial strikes were thus carried out against boats and their support facilities.

"This action was limited in scale, its only targets being the weapons and the facilities against which we had been forced to defend ourselves.

"Now, Mr. President, gentlemen, it is our fervent hope that the point has now been made that acts of armed aggression are not to be tolerated in the Gulf of Tonkin any more than they are to be tolerated anywhere else."

THE PRESIDENT'S MESSAGE

On August 4 and 5 the President consulted with congressional leaders, both before and after the limited military retaliation directed against North Vietnam. On August 5, 1964, he sent the following message to Congress:

"To the Congress of the United States:

"Last night I announced to the American people that the North Vietnamese regime had conducted further deliberate attacks against U.S. naval vessels operating in international waters, and that I had therefore directed air action against gunboats and supporting facilities used in these hostile operations. This air action has now been carried out with substantial damage to the boats and facilities. Two U.S. aircraft were lost in the action.

"After consultation with the leaders of both parties in the Congress, I further announced a decision to ask the Congress for a resolution expressing the unity and determination of the United States in supporting freedom and in protecting peace in southeast Asia.

"These latest actions of the North Vietnamese regime have given a new and grave turn to the already serious situation in southeast Asia. Our commitments in that area are well known to the Congress. They were first made in 1954 by President Eisenhower. They were further defined in the Southeast Asia Collective Defense Treaty approved by the Senate in February 1955.

"This treaty with its accompanying protocol obligates the United States and other members to act in accordance with their constitutional processes to meet Communist aggression against any of the parties or protocol states.

"Our policy in southeast Asia has been consistent and unchanged since 1954. I summarized it on June 2 in four simple propositions:

"1. America keeps her word. Here as elsewhere, we must and shall honor our commitments.

"2. The issue is the future of southeast Asia as a whole. A threat to any nation in that region is a threat to all, and a threat to us.

"3. Our purpose is peace. We have no military, political, or territorial ambitions in the area.

"4. This is not just a jungle war, but a struggle for freedom on every front of human activity. Our military and economic assistance to South Vietnam and Laos in particular has the purpose of helping these countries to repel aggression and strengthen their independence.

"The threat to the free nations of southeast Asia has long been clear. The North Vietnamese regime has constantly sought to take over South Vietnam and Laos. This Communist regime has violated the Geneva accords for Vietnam. It has systematically conducted a campaign of subversion, which includes the direction, training, and supply of personnel and arms for the conduct of guerrilla warfare in South Vietnamese territory. In Laos, the North Vietnamese regime has maintained military forces, used Laotian territory for infiltration into South Vietnam, and most recently carried out combat operations—all in direct violation of the Geneva agreements of 1962.

"In recent months, the actions of the North Vietnamese regime have become steadily more threatening. In May following new acts of Communist aggression in Laos, the United States undertook reconnaissance flights over Laotian territory, at the request of the Government of Laos. These flights had the essential mission of determining the situation in territory where Communist forces were preventing inspection by the International Control Commission. When the Communists attacked these aircraft, I responded by furnishing escort fighters with instructions to fire when fired upon. Thus, these latest North Vietnamese attacks on our naval vessels are not the first direct attack on Armed Forces of the United States.

"As President of the United States I have concluded that I should now ask the Congress, on its part, to join in affirming the national determination that all such attacks will be met, and that the United States will continue in its basic policy of assisting the free nations of the area to defend their freedom.

"As I have repeatedly made clear, the United States intends no rashness, and seeks no wider war. We must make it clear to all that the United States is united in its determination to bring about the end of Communist subversion and aggression in the area. We seek the full and effective restoration of the international agreements signed in Geneva in 1954, with respect to South Vietnam, and again at Geneva in 1962, with respect to Laos.

"I recommend a resolution expressing the support of the Congress for all necessary action to protect our Armed Forces and to assist nations covered by the SEATO Treaty. At the same time, I assure the Congress that we shall continue readily to explore any avenues of political solution that will effectively guarantee the removal of Communist subversion and the preservation of the independence of the nations of the area.

"The resolution could well be based upon similar resolutions enacted by the Congress in the past—to meet the threat to Formosa in 1955, to meet the threat to the Middle East in 1957, and to meet the threat to Cuba in 1962. It could state in the simplest terms the resolve and support of the Congress for action to deal appropriately with attacks against our Armed Forces and to defend freedom and preserve peace in southeast Asia in accordance with the obligations of the United States under the Southeast Asia Treaty. I urge the Congress to enact such a resolution promptly and thus to give convincing evidence to the aggressive Communist nations, and to the world as a whole, that our policy in southeast Asia will be carried forward—and that the peace and security of the area will be preserved.

"The events of this week would in any event have made the passage of a congressional resolution essential. But there is an additional reason for doing so at a time when we are entering on 3 months of political campaigning. Hostile nations must understand that in such a period the United States will continue to protect its national interests, and that in these matters there is no division among us.

"LYNDON B. JOHNSON.

"THE WHITE HOUSE, *August 5, 1964.*"

COMMITTEE ACTION

The President's message and Senate Joint Resolution 189, introduced by Senator Fulbright (for himslf and Senator Hickenlooper, Senator Russell, and Senator Saltonstall) to give effect to the Presidential recommendations, by unanimous consent were referred jointly to the Committee on Foreign Relations and the Committee on Armed Services. During the morning of August 6 the joint committee, with Senator Fulbright presiding in executive session, heard Secretary of State Dean Rusk, Secretary of Defense Robert McNamara, and Gen. Earle Wheeler, Chairman of the Joint Chiefs of Staff.

After receiving the testimony the joint

committee voted 31 to 1 to report the resolution favorably without amendment.

SCOPE OF THE RESOLUTION

Senate Joint Resolution 189 is patterned quite closely upon precedents afforded by similar resolutions: the Formosa resolution of 1955, the Middle East reslution of 1957, and the Cuba resolution of 1962.

The phrasing in section 2, "in accordance with its obligations under the Southeast Asia Collective Defense Treaty," comprehends the understanding in that treaty that the U.S. response in the context of article IV(1) is confined to Communist aggression. It should also be pointed out that U.S. assistance, as comprehended by section 2, will be furnished only on request and only to a signatory or a state covered by the protocol to the SEATO Treaty. The protocol states are Laos, Cambodia, and South Vietnam.

The language in section 3, which governs the termination of the resolution, combines the relevant provisions of the Formosa and Middle East resolutions.

JOINT COMMITTEE RECOMMENDATION

With only one dissenting vote, the joint committee endorsed the resolution and recommended its adoption by the Senate. Members of the committee expressed approval of the handling of the crisis in southeast Asia by the President and the Secretaries of State and Defense, by the Joint Chiefs of Staff, and by U.S. naval forces in the area of Vietnam.

On the basis of testimony submitted by the Secretaries of State and Defense and the Chairman of the Joint Chiefs of Staff, the committee was satisfied that the decision of the President to retaliate against the North Vietnamese gunboat attacks was both soundly conceived and skillfully executed. In the circumstances, the United States could not have done less and should not have done more.

[6. Statement by Secretary Rusk before the Joint Hearing of the Senate Foreign Relations Committee and The Senate Armed Services Committee in connection with the Tonkin Gulf Resolution]

STATEMENT OF SECRETARY OF STATE DEAN RUSK

Chairman Fulbright, Chairman Russell, and members of the committees, I appear before you in support of the Joint Congressional Resolution on Southeast Asia now before your committees. If the committees are agreeable, I shall proceed by explaining the purpose of the Resolution. Secretary McNamara will then describe to you the recent attacks on our naval vessels and the U.S. response thereto. I would then propose to conclude by going over the text of the Resolution itself and discussing its meaning and scope.

The immediate occasion for this Resolution is of course the North Vietnamese attacks on our naval vessels, operating in international waters in the Gulf of Tonkin, on August 2nd and August 4th.

However, it is obvious that these attacks were not an isolated event but are related directly to the aggressive posture of North Vietnam and to the policy that the United States has been pursuing in assisting the free nations of Southeast Asia and particularly South Vietnam and Laos, to defend themselves against Communist aggression, and thus to preserve the peace of the area.

When Indochina was divided and the independent states of South Vietnam, Laos, and Cambodia were created under the conditions of the Genevaa Accords of 1954, it was at once clear that in the face of the North Vietnamese threat South Vietnam and Laos could not maintain their independence without outside assistance. The Government of South Vietnam turned to the United States for such assistance, and President Eisenhower in December 1954 made the decision that it should be furnished, stating that our purpose was to "assist the Government of Vietnam in developing and maintaining a strong, viable state, capable of resisting attempted subversion or aggression through military means."

In the fall of 1954, Secretary Dulles negotiated, and the Senate in early 1955 consented to, the Southeast Asia Collective Defense Treaty, sometimes known as the Manila Pact. This treaty provided for the collective defense of the parties to this treaty—Thailand, the Philippines, Australia, New Zealand, Pakistan, the United States, the United Kingdom, and France. It provided further that the protection of the treaty should extend, under an annexed protocol, to the territory of South Vietnam and to Laos and Cambodia.

I do not need to review for you the subsequent history of North Vietnamese efforts to subvert and conquer South Vietnam and to do the same in Laos. Having found that South Vietnam would not collapse of itself but was on the contrary making remarkable progress, Hanoi in 1959 initiated a systematic campaign of terror and subversion in South Vietnam, directed and supplied with key personnel and equipment from the north. By 1961, the situation had reached a critical point and the United States greatly increased its advisory and supporting assistance to the Government of South Vietnam.

Despite this assistance, the task of countering the extensive Viet Cong effort remains a long and arduous one, and as you know we have moved within the last two weeks to further increase our support while recognizing always that the struggle in South Vietnam must essentially be the responsibility of the South Vietnamese themselves.

In Laos, the agreements reached at Geneva in 1962 have been consistently violated by Hanoi and in May of this year the situation took on a more critical character when a Communist military offensive drove neutralist forces from the area of the Plain of Jars they had held in 1962. Our responses to these events, including the provision of additional T-28's to the Government of Laos [deleted] are well known to you.

The present attacks, then, are no isolated event. They are part and parcel of a continuing Communist drive to conquer South Vietnam, control or conquer Laos, and thus weaken and eventually dominate and conquer other free nations of Southeast Asia. One does not need to spell out a "domino theory"; it is enough to recognize the true nature of the Communist doctrine of world revolution and the militant support that Hanoi and Peiping are giving to that doctrine in Southeast Asia.

U.S. policy and objectives

Although the United States did not itself sign the Geneva Accords of 1954, Under Secretary Walter Bedell Smith made a formal statement that the United States "would view any renewal of the aggression in violation of the aforesaid agreements with grave concern and as seriously threatening international peace and security." We have repeatedly made clear that the independence and security provided for South Vietnam under those Accords was a satisfactory status for South Vietnam. All that is needed, as I have myself often said, is for Hanoi and Peiping to leave their neighbors alone.

The same is true with respect to the 1962 Accords for Laos. These provided a reasonable arrangement for the status of Laos, and what is needed, again, is simply that the Communist side should honor the commitments it undertook.

Above all, there can be no doubt of United States objectives for these nations and for the area as a whole. Here, as elsewhere, we believe that nations are entitled to remain free and to develop as they see fit. The United States has no military, territorial, or political ambitions for itself in Southeast Asia. We seek only the restoration of peace and the removal of Communist subversion and agression.

Essentially, the outcome of this conflict, and the course of events in the area as a whole, is up to the Communist side. It has the option of accepting the freedom and independence of neighboring nations, or of continuing its aggressive tactics. For our part, as President Johnson stated on June 23: "The United States intends no rashness, and seeks no wider war. But the United States is determined to use its strength to help those who are defending themselves against terror and aggression. We are a people of peace—but not of weakness or timidity."

Purpose of the resolution

This, then is the background of the Resolution before you. We have never doubted the support of the American people for the policies that have been followed through three administrations over a period of a decade. But in the face of the heightened aggression on the Communist side, exemplified by these latest North Vietnamese attacks, it has seemed clearly wise to seek in the most emphatic form a declaration of Congressional support both for the defense of our armed forces against similar attacks and for the carrying forward of whatever steps may become necessary to assist the free nations covered by the Southeast Asia Treaty.

We cannot tell what steps may in the future be required to meet Communist aggression in Southeast Asia. The unity and determination of the American people, through their Congress, should be declared in terms so firm that they cannot possibly be mistaken by other nations. The world has learned over 50 years of history that aggression is invited if there is doubt about the response. Let us leave today's aggressors in no doubt whatever.

I now turn to Secretary McNamara, who will describe the recent attacks and our response.

I now turn to the specifics of the Resolution before you.

The preamble, I believe, speaks for itself. It spells out in the simplest and shortest terms possible the fact of North Vietnamese attacks, their relation to the over-all campaign of aggression by North Vietnam, and the purposes and objectives of the United States in Southeast Asia.

As to the operative sections of the Resolution, Section 1 declares the approval and support of the Congress for actions, in response to armed attack on United States forces, which the President has the authority and obligation to take in his capacity as Commander-in-Chief.

Turning next to Section 2 of the draft Resolution, let me make clear at the outset what the Resolution does not embrace. It does not cover action to assist any nation not a member of the Southeast Asia Treaty Organization or a protocol state. It does not cover any action in support of a nation unless such nation requests it. It does not cover any action to resist aggression that is not Communist in origin. The Southeast Asia Treaty includes a United States understanding that it is directed solely against "Communist aggression."

The language, "to take all necessary steps, including the use of armed force", is simliar to the authority embraced in the Formosa Resolution of 1955, the Middle East Resolution of 1957, and the Cuba Resolution of 1962. Copies of each of these have been made available to you for comparative purposes. The Formosa Resolution authorized the President "to employ the armed forces of the United States". The Middle East Resolution stated that the United States was "prepared to use armed forces." The nearest parallel to the language of the present Resolution is in the first clause of the Cuba Resolution, that the United States is "determined . . . to prevent by whatever means may

be necessary, including the use of arms" Cuban subversive activities extending to any part of the hemisphere.

I shall not take your time this morning to review the constitutional aspects of resolutions of this character. I believe it to be the generally accepted constitutional view that the President has the constitutional authority to take at least limited armed action in defense of American national interests; in at least 85 instances, Presidents of the United States have in fact taken such action. As I have said before, we cannot now be sure what actions may be required. The Formosa Resolution of 1955 was followed by the use of United States warships to escort supply convoys to the offshore island in 1958; the Middle East Resolution was followed by President Eisenhower's sending of troops to Lebanon in 1958; the Cuba Resolution was followed by the well-known events of October 1962. I do not suggest that any of these actions may serve as a parallel for what may be required in Southeast Asia. There can be no doubt, however, that these previous resolutions form a solid legal precedent for the action now proposed. Such action is required to make the purposes of the United States clear and to protect our national interests.

[7. Statement by Secretary of Defense McNamara before the same Committees in connection with the Tonkin Gulf Resolution]

STATEMENT BY SECRETARY OF DEFENSE ROBERT S. MCNAMARA

Chairman Fulbright, Chairman Russell, and members of the Senate Foreign Relations and Armed Services Committees, during the past few days, deliberate and unprovoked military attacks by the North Vietnamese have given rise to the need for us to appear here today. I should like to review the attacks with you briefly and to describe the responses we made to those attacks.

The first incident occurred on August 2. It concerned the USS *Maddox*, one of our destroyers engaged in a routine patrol in International waters of the Gulf of Tonkin off the North Viet Nam coast. At about noon, when the *Maddox* was about 30 miles from the coast, she reported that three torpedo boats were on a southerly course heading toward the ship at a range of over 10 miles.

Two hours later, at approximately 2:40 P.M., the *Maddox* was approached by a high speed—45 to 50 knot—craft. She reported that the apparent intention of this craft was to conduct a torpedo attack and that she intended to open fire in self-defense if necessary. She was attacked by the three PT craft at 3:08 P.M. She opened fire with her five-inch battery after three warning shots failed to slow down the attackers. The PTs continued their closing maneuvers, and two of the PTs closed to 5,000 yards, each firing one torpedo. The *Maddox* changed course in an evasive move and the two torpedoes passed on the starboard side at a distance of 100 to 200 yards.

The USS *Ticonderoga*, which was operating in waters to the southeast and which had been alerted to the impending attack, advised she was sending four already airborne F-8E (Crusader) fighters with rockets and 20 mm ammunition to provide air cover for the *Maddox*. At about 3:21 P.M., the third hostile PT moved up to the beam of the *Maddox* and received a direct hit by a five-inch round; at the same time it dropped a torpedo into the water which was not seen to run. Machine gun fire from the PTs was directed at the *Maddox*. However, there was no injury to personnel and no damage. The *Maddox* continued in a southerly direction to join with a sister destroyer, the *C. Turner Joy*, as *Ticonderoga* aircraft commenced attacking the PTs. ZUNI rocket runs and 20 mm strafing attacks were directed against two of the PTs, and they were damaged. The third PT remained dead in the water after the direct hit by the *Maddox*. At 3:29 P.M., the engagement terminated and the aircraft escorted the *Maddox* southward on its patrol course.

On Monday, August 3, the President made public instructions that he had issued the day before regarding future patrols and engagements with enemy craft. He instructed the Navy, first, to continue the patrols in the Gulf of Tonkin; second, to double the force by adding an additional destroyer to the one already on patrol; third, to provide a combat air patrol over the destroyers; and fourth, to issue instructions to the combat aircraft and to the destroyers (a) to attack any force which attacked them in international waters, and (b) to attack with the objective of not only driving off the force but of destroying it.

At the same time as these instructions were being broadcast throughout the world, the State Department, acting pursuant to the President's further instructions, took steps to deliver a note of protest to the North Vietnam regime. The note was also widely publicized. It concluded with the words, "The United States Government expects that the authorities of the regime in North Viet-Nam will be under no misapprehension as to the grave consequences which would inevitably result from any further unprovoked offensive military action against United States forces."

Our hopes that the firm defensive action taken in response to the first attack and the protest to Hanoi would end the matter were short-lived.

After the first attack on Sunday, the *Maddox* joined with its sister destroyer, the USS *Turner Joy*, in the Gulf of Tonkin and resumed its patrol in international waters, as directed by the President.

Monday, August 3, was uneventful.

The patrol was also uneventful during most of the daylight hours of Tuesday, August 4. In the early evening of August 4, however, the *Maddox* reported radar contact with unidentified surface vessels who were paralleling its track and the track of the *Turner Joy*. It was 7:40 P.M. when the *Maddox* reported that, from actions being taken by those unidentified vessels, an attack by them appeared imminent. At this time the *Maddox* was heading southeast near the center of the Gulf of Tonkin in International waters approximately 65 miles from the nearest land.

The *Maddox* at 8:36 P.M. established new radar contact with two unidentified surface vessels and three unidentified aircraft. At this time, U.S. fighter aircraft were launched from the *Ticonderoga* to rendezvous with the *Maddox* and the *Turner Joy* to provide protection against possible attack from the unidentified vessels and aircraft, in accordance with the President's previously issued directives. Shortly thereafter, the *Maddox* reported that the unidentified aircraft had disappeared from its radar screen and that the surface vessels were remaining at a distance. The aircraft from the *Ticonderoga* arrived and commenced defensive patrol over the *Maddox* and the *Turner Joy*.

At 9:30 P.M., additional unidentified vessels were observed on the *Maddox* radar, and these vessels began to close rapidly on the destroyer patrol at speeds in excess of 40 knots. The attacking craft continued to close rapidly from the west and south and the *Maddox* reported that their intentions were evaluated as hostile. The destroyers reported at 9:52 P.M. that they were under continuous torpedo attack and were engaged in defensive counterfire.

Within the next hour, the destroyers relayed messages stating that they had avoided a number of torpedoes, that they had been under repeated attack, and that they had sunk two of the attacking craft. By Midnight local time, the destroyers reported that, even though many torpedoes had been fired at them, they had suffered no hits nor casualties and the defensive aircraft from the *Ticonderoga* were illuminating the area and attacking the enemy surface craft. Shortly thereafter, they reported that at least two enemy craft had been sunk although low ceilings continued to hamper the aircraft operations. The *Turner Joy* reported that during the engagement, in addition to the torpedo attack, she was fired upon by automatic weapons while being illuminated by searchlights.

Finally, after more than two hours under attack, the destroyers reported at 1:30 A.M. that the attacking craft had apparently broken off the engagement.

The deliberate and unprovoked nature of the attacks at locations that were indisputably in international waters compelled the President and his principal advisers to conclude that a prompt and firm military response was required. Accordingly, the President decided that air action, in reply to the unprovoked attacks, should be taken against gunboats and certain supporting facilities in North Vietnam which had been used in the hostile operations. On Tuesday evening, after consulting with Congressional leadership, he so informed the American people.

The United States military response was carefully planned and effectively carried out. The U.S. air strikes began approximately at noon Wednesday local time against North Vietnamese PT and gun boats, their bases and support facilities. These reprisal attacks, carried out by naval aircraft of the United States Seventh Fleet from the carriers *Ticonderoga* and *Constellation*, were limited in scale—their primary targets being the weapons against which our patrolling destroyers had been forced to defend themselves twice in the prior 72 hours.

Specifically, our naval air forces launched 64 attack sorties against 4 North Vietnamese patrol boat bases and their boats and against a major supporting oil storage depot. Strike reports indicate that all targets were severely hit, in particular the petroleum installation where 10% of North Vietnam's petroleum storage capacity was 90% destroyed. Smoke was observed rising to 14,000 feet. Some 25 North Vietnamese patrol boats were destroyed or damaged.

Our losses were two aircraft destroyed and two damaged. One of the pilots is believed to have crashed with his plane between two PT craft he had under attack. Another pilot reported that he was ejecting from his downed aircraft. His whereabouts is at present listed as unknown.

In view of the unprovoked and deliberate attacks in international waters on our naval vessels and bearing in mind that the best way to deter escalation is to be prepared for it, the President and his principal advisers concluded that additional precautionary measures were required in Southeast Asia. Certain military deployments to the area are therefore now underway. These include:

a. Transfer of an attack carrier group from the Pacific Coast to the Western Pacific;

b. Movement of interceptor and fighter bomber aircraft into South Vietnam;

c. Movement of fighter bomber aircraft into Thailand;

d. Transfer of interceptor and fighter bomber squadrons from the United States to advance bases in the Pacific;

e. Movement of an antisubmarine force into the South China Sea;

f. The alerting and reading for movement of selected Army and Marine forces.

In the meantime, U.S. destroyers with protective air cover as needed, continue their patrol in the international waters of the Gulf of Tonkin.

The moves we have taken to reinforce our forces in the Pacific are in my judgment sufficient for the time being. Other rein-

forcing steps can be taken very rapidly if the situation requires.

This concludes my descriptions of the two deliberate and unprovoked North Vietnamese attacks on U.S. naval vessels on the high seas; of the United States reprisal against the offending boats, their bases and related facilities; and of the precautionary deployment and alerting steps we have taken to guard against any eventuality.

Mr. ALLOTT and Mr. HOLLAND addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. HOLLAND. Mr. President, I had come to the floor expecting to support this resolution. I have understood that the President has said he does not need this resolution, that he is proceeding to handle the situation which he found when he went into office, that as Commander in Chief he feels that he has ample power to handle that situation whichever way it leads to an honorable conclusion.

However, after I have heard what the distinguished Senator from New York has had to say as to his interpretation of the resolution—and he is one of its joint authors—and after I have talked with my distinguished friend, the Senator from Arkansas, who I understand supports the same interpretation, I could not possibly support it.

I think that we all in good faith voted for the Gulf of Tonkin resolution. I think that we all would not want to leave the present President, who had nothing to do with it at that time, inhibited in any way or crippled in any way with respect to dealing actively and effectively with the various steps that need to be done to bring this whole matter to a conclusion and the fulfilling of such obligations as we have incurred there. Since one of the authors of this resoluiton has said what he has stated on the floor—I honor his candor, and I also honor the candor of the distinguished chairman of the Committee on Foreign Relations—I could not possibly support this resolution, because I do not believe that we should pull the rug from under the President or that we should do something that looks as though we are completely withdrawing our support. I just want to make my position completely clear.

I would be happy to vote for the repeal of the resolution, but with a completely different understanding from that stated by the Senator from New York; namely, that the President would have full power to do all the things that are necessary in fulfilling honorable obligations that we have there in protecting our troops and ultimately getting them out.

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

Mr. HOLLAND. I yield.

Mr. STENNIS. I understand that a vote is coming up in a few minutes. I will not vote for the repeal of this resolution, regardless of its history—and it is repudiated here by its own father, the Senator from Arkansas—if it is going to detract from the President's position. Now that we have moved on with the war, and the President, himself, has said that he does not need the resolution, as I understand the situation, the President is standing on his constitutional powers and not treaty powers. As I have always viewed the matter, we have no treaty obligation under SEATO. We are already in the war, and have been for years, so the President stands on his constitutional powers.

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

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

Mr. FULBRIGHT. I repudiate any suggestion that I was the father of this resolution.

Mr. STENNIS. The Senator from Arkansas sponsored it here on the Senate floor.

Mr. FULBRIGHT. Mr. Lyndon Baines Johnson was the father.

I was the midwife for an illegitimate child. [Laughter.] I did not at that time recognize the nature of its parentage, and I was not aware of the falsity of the circumstances under which it was conceived and presented to me, and I repudiate any suggestion that I am its father. Under the rules of the Senate, as chairman, I was merely the midwife to bring it to this Chamber.

Mr. STENNIS. I was referring to the presentation here by the Senator from Arkansas, and in jest, also. I have heard these cases of illegitimacy in court cases but not here on the Senate floor.

Mr. HOLLAND. Mr. President, I had not expected to hold up the Senate longer. My sole position is this: I voted the other day for an amendment which would have repealed this resolution, but under a completely different understanding from that stated now by the Senator from New York—and I understand supported by the distinguished Senator from Arkansas—as being the interpretation of the pending joint resolution. I cannot support it under that interpretation, and that is what I am trying to make clear.

I am not going to be a party to pulling the rug out from under the President. I think he has complete power to deal with this situation, which he inherited, and to do everything that is honorable in bringing the situation to a conclusion, but without having to come back here for this, that, and the other consent and long hearing and debate before he does things that the situation requires.

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

Mr. HOLLAND. I yield.

Mr. MILLER. I thank the Senator.

Mr. President, I share somewhat the concern of the Senator from Florida. But, in fairness, I want to repeat what the Senator from New York did say. He said his interpretation of the action by the Senate's repeal of the Gulf of Tonkin resolution was that it would "clear the decks," so to speak, and that the powers of the President then would be covered by the Constitution. Then he said that how each Member of the Senate would interpret those powers would be up to his own individual judgment. He said:

I am only stating my own personal judgment on it.

He went on to say that the powers of the President as Commander in Chief would cover withdrawal of troops in an appropriate manner consistent with their security.

The Senator from Iowa is suggesting that there should be another factor; namely, withdrawing troops consistent with the security and handling the termination of the war consistent with treaty obligations to the people we have been helping. The Senator from New York recognized that as an additional factor. However, I think we can vote for the repeal of the Gulf of Tonkin resolution as a deckclearing operation, without getting into any argument as to how we interpret the constitutional powers of the President as Commander in Chief.

Mr. President, I shall vote for repeal, but I certainly want it understood that when it comes to interpreting the powers of the President as Commander in Chief, that means more than just withdrawing troops as fast as possible consistent with their security. There is another ingredient, and that is what Vietnamization is designed to meet.

Mr. HOLLAND. I thank the Senator.

Mr. President, I yield temporarily to the Senator from Alabama (Mr. SPARKMAN) and hope that he will confine his comments to 2 minutes, because one of our friends has to catch a plane.

Mr. SPARKMAN. I will certainly do that.

Mr. President, I want to say that in committee I voted to report the resolution favorably to the floor. I did not feel that anyone in the committee felt that the interpretation of the Senator from New York, as I have heard it, was correct.

In fact, all the testimony before the committee from the administration was to the effect that no longer are they using the Gulf of Tonkin resolution, that they would not use it, that they did not intend to do so, that they neither opposed nor recommended its repeal, that it was entirely up to us.

Therefore, Mr. President, I think it is most unfortunate that this interpretation has come up here on the floor. I do not believe it was the interpretation that prevailed in the committee when we voted to report it.

Mr. MANSFIELD. May I say to the Senator that he is absolutely correct. The President has stated time and time again that he was not operating on the basis of the Gulf of Tonkin resolution and, as a matter of fact, he disavowed it.

Mr. SPARKMAN. That is right. I agree that he has the constitutional powers, regardless of what we do with the Gulf of Tonkin resolution.

The PRESIDING OFFICER (Mr. SPONG). The Senator from Florida has the floor.

Mr. FULBRIGHT. Mr. President, he sat down.

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

Mr. HOLLAND. Mr. President, I yielded the floor but I am glad to yield to the——

The PRESIDING OFFICER. The Senator from Colorado (Mr. ALLOTT) is recognized.

TWO OR MORE CHEERS FOR TWO OR MORE REPEALS

Mr. ALLOTT. Mr. President, things are becoming, as Alice said in Wonderland, "curiouser and curiouser."

Unless my eyes and ears deceive me, we are about to repeal a resolution that we have recently repealed.

Now I have been in this body for 16 years and I thought I had seen pretty much everything by now.

But this is truly remarkable. I suppose that there is nothing in the laws of nature that makes it impossible to repeal something twice. I just hope the laws of legislation are different from some of the laws of the sciences. I would hate to think that two negatives would make a positive. In that case, two repeals might make an enactment and we would be back with the Tonkin Gulf resolution. It is my understanding that this is not the intention of the junior Senator from Arkansas, who only wants to be floor manager of the Tonkin Gulf resolution once in this lifetime.

Mr. President, this double repeal has a certain charm, and it also has limitless possibilities. If repealing something twice means we find it especially bad, then perhaps we should pass very good measures twice—or maybe even more.

For example consider the 19th Amendment. Clearly it was a splendid thing to give women the vote. Perhaps we should pass it again, just to show our enthusiasm for the women of the Nation.

In addition, I think the confirmation of John Marshall as Chief Justice of the Supreme Court was especially fortunate for this Nation. Therefore, perhaps we should give some consideration to reconfirming him, just on general principles. It cannot do any harm. It certainly cannot inconvenience him, because he is as dead as the Tonkin Gulf resolution.

Mr. President, I must point out that this business of repealing the repealed does represent a certain departure from Senate procedure. I do not want to be a stick in the mud; this departure contributes to the public stock of harmless pleasure.

I would not mention it except that some of those most anxious to repeal the Tonkin Gulf resolution have recently been very eloquent in defending what they take to be accepted Senate procedures. In fact, if my memory serves me, the distinguished and learned junior Senator from Arkansas found fault with the original procedures whereby the Tonkin Gulf resolution was repealed.

Of course it is understandable that the floor manager of the Tonkin Gulf resolution would want to see it laid to rest with proper solemnity and ceremony. Nevertheless, it is odd that the defenders of Senatorial due process should be pioneering this most imaginative improvisation—the double repeal of measures they come to deem obnoxious.

Mr. President, I have one more thought. Perhaps it is a good idea to repeal this resolution twice, just to make up for the fact that some things that need doing cannot even be done once.

For example, we have not yet managed officially to end the Second World War. So let's repeal the Tonkin Gulf resolution once more to make up for that.

In addition, we have not yet got a real settlement of the Korean war. So when we are done repealing the Tonkin Gulf resolution a second time, lets march ahead and repeal it a third time, just to show how good we are at terminating some things.

Then we should repeal it a fourth time just to show how determined we are someday to find a cure for cancer.

Then maybe we could repeal it a fifth time, to show our sympathy for the downtrodden.

Mr. President, as I said at the outset, the possibilities are limitless for this new kind of imaginative legislating. I only want to salute those who are here pioneering new dimensions in creative government, and who have transcended last week's enormous commitment to traditional Senate procedures.

Mr. DOLE. Mr. President, the Tonkin Gulf resolution is inappropriate to today's realities in Southeast Asia. It is a vehicle of escalation and widening involvement, whereas U.S. operations in Southeast Asia are today directed toward deescalation and reduced involvement in combat. It is the policy device of a previous administration which sought to expand the American presence in Vietnam; whereas the Nixon administration has never relied upon nor invoked the Tonkin Gulf resolution in policy.

The Tonkin Gulf was variously and inconsistently interpreted after its adoption. Some saw it as a purely defensive and narrow-ranged response to a specific incident. Others saw it as a carte blanche mandate with which to enmesh the United States in a full-scale commitment to the South Vietnamese Government. Some considered it a virtual declaration of war.

In the wake of these differing interpretations, the Tonkin Gulf resolution now stands as an obsolete and unused vestige of our foreign policy. It has been rejected by the Nixon administration, and it serves no useful purpose other than as a reminder of its past abuses and their consequences.

Since the resolution was subjected to such abusive interpretation, its presence on the statute books presents a clear and not altogether fanciful danger that some other and equally vexatious reading might be given in the future.

Recent Senate debate has repeatedly emphasized the responsibility of Congress to assume its obligations in the formulation and conduct of foreign policy. While care should be taken to avoid actions which would appear to limit or transgress upon the President's prerogatives in this field, Congress, the Senate in particular, has a significant role to play in establishing policy objectives and guidelines. By repealing the Tonkin Gulf resolution we can exercise our powers and fulfill our responsibilities in a positive and meaningful way. Having provided the peg upon which the Vietnam escalation was hung, we can make a start at exerting congressional influence and wisdom by removing that peg and clearing the way for other worthwhile achievements in defining foreign policy and national priorities.

Mr. MANSFIELD. Mr. President, the distinguished Senator from Wyoming (Mr. McGEE) is necessarily absent from the Senate today, but he has asked that a statement he prepared in advance of this occasion be shared with his colleagues as part of the debate on Senate Concurrent Resolution 64. The Senator from Wyoming's views in this area are strong ones, firmly held. I ask unanimous consent that the statement of Senator McGEE be included in the RECORD at this point.

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

SENATOR McGEE'S STATEMENT ON SENATE CONCURRENT RESOLUTION 64

Mr. McGEE. Mr. President, this body is awash in irrelevancy today. Action on this resolution to repeal the Gulf of Tonkin Resolution means nothing. It will not change things. We cannot repeal history. In fact, there is really nothing in the Gulf of Tonkin Resolution itself that either permits or withholds from the President any of the actions which have taken place in Southeast Asia.

Mr. President, nearly every member of the Senate voted for the Tonkin Gulf Resolution. Despite that, there have been many attempts by individual members to explain away or excuse their vote. I for one am not prepared to say that the Senate was either deceived or simple minded at the time this resolution was passed. I believe we voted as we did because we thought it the wise thing to do. And in all honesty I believe it fair to say that if events in Southeast Asia had taken a better turn after that resolution was enacted, we would be more inclined to point with pride at our action in approving that resolution, rather than exacerbate the continuing debate over the war by pushing through some official sort of *mea culpa* which pretends to undo what has already been done.

Aside from the irrelevancy of the issue, there is a serious negative aspect to the proposition before the Senate today. The people here at home may read into the action itself more than even its proponents ever intended. At the very least, it may be interpreted as a slap at the President of the United States. In this context, it could become a complication hampering his efforts to deescalate and disengage with responsibility in Southeast Asia.

Its fallout almost certainly will have the effect of startling or even panicking the governments of a number of small, independent countries in Eastern Asia. Their inclination, we are told, will be to interpret it as an affirmation of American withdrawal from any sense of commitment in the Western Pacific.

In essence, the domestic politics within our own country which dictates the tactics on the floor of the Senate these days will not be understood or correctly interpreted by the Asians themselves.

Inasmuch, therefore, as the Tonkin Gulf resolution per se has so little substance in our current policy activities, and because it reflects more of tactical maneuvering rather than basic motivations, it appears to me that we are ill-advised in running the risks of adverse impact in those parts of the world where we need respect and confidence and trust in American leadership.

It is my view that instead of looking back, the Senate ought to look forward to what our role ought to be in the next crisis. Surely there will be future crises, Mr. President, and if we have learned anything it would seem to be that the role of the Senate ought not be bound up in retrospective fault-finding, but in helping define what the future policies of the United States should be and how the Government should function in matters of critical foreign policy decisions in the future.

In my mind it is of questionable value for this body to be measuring the violations of constitutional intent from the past when

we ought to be seeking a more modern and surely more enlightened procedure for the future. I realize that the newsworthiness of our present dialog seems to be far greater than would a scholarly and statesmanlike study of where we go from here. But the coverage or popularity of the subject matter really is not the issue—and dare not be.

The issue is whether our form of free society can survive the tensions and crises in a nuclear world without law. I wish I had some ready answers to submit in this discussion. I do not have, and I am not aware of those who may have.

It is my hope that the Foreign Relations Committee in particular and this Body in general will assign a top priority to this pursuit. If only we can agree to proceed toward that objective now, the rhetoric and the parliamentary maneuvering of the past many weeks may not appear as starkly shallow in substance as I believe they will appear if left as we see them now—devoid of positive and constructive and imaginative new suggestions on how we might more wisely proceed from here.

The PRESIDING OFFICER (Mr. SPONG). The question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the committee amendments.

The committee amendments were agreed to.

The PRESIDING OFFICER. The question now recurs on adoption of the resolution (S. Con. Res. 64), as amended.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ELLENDER (after having voted in the negative). On this vote I have a live pair with the Senator from Tennessee (Mr. GORE). If present and voting, he would vote "yea." I have already voted "nay." I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS), are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from North Carolina (Mr. JORDAN) are absent on official business.

On this vote, the Senator from Missouri (Mr. SYMINGTON) is paired with the Senator from Wyoming (Mr. MCGEE). If present and voting, the Senator from Missouri would vote "yea" and the Senator from Wyoming would vote "nay."

On this vote, the Senator from South Carolina (Mr. HOLLINGS) is paired with the Senator from South Carolina (Mr. THURMOND).

If present and voting Mr. HOLLINGS would vote "nay" and Mr. THURMOND would vote "yea."

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PASTORE), would each vote "yea."

Mr. SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from New York (Mr. GOODELL), the Senator from Michigan (Mr. GRIFFIN), the Senator from Florida (Mr. GURNEY), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH), the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. HRUSKA) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) and the Senator from Maine (Mrs. SMITH) are absent because of illness.

The Senator from Kansas (Mr. PEARSON) is detained on official business.

If present and voting, the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Florida (Mr. GURNEY), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. GOODELL), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Kansas (Mr. PEARSON), the Senator from Kentucky (Mr. COOK), the Senator from Maine (Mrs. SMITH), the Senator from Illinois (Mr. SMITH) and the Senator from Texas (Mr. TOWER) would each vote "yea."

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from South Carolina (Mr. HOLLINGS). If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea" and the Senator from South Carolina (Mr. HOLLINGS) would vote "nay."

The result was announced—yeas 57, nays 5, as follows:

[No. 237 Leg.]

YEAS—57

Aiken	Cooper	Inouye
Allott	Dole	Jackson
Anderson	Dominick	Javits
Bible	Eagleton	Jordan, Idaho
Boggs	Fong	Kennedy
Brooke	Fulbright	Mansfield
Burdick	Hansen	Mathias
Byrd, Va.	Harris	McCarthy
Byrd, W. Va.	Hart	McGovern
Case	Hatfield	McIntyre
Church	Hughes	Metcalf
Miller	Prouty	Spong
Mondale	Proxmire	Stennis
Montoya	Randolph	Talmadge
Muskie	Ribicoff	Williams, N.J.
Nelson	Saxbe	Williams, Del.
Packwood	Schweiker	Yarborough
Pell	Scott	Young, N. Dak.
Percy	Sparkman	Young, Ohio

NAYS—5

Allen	Holland	McClellan
Ervin	Long	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Ellender, against.

NOT VOTING—37

Baker	Goodell	Murphy
Bayh	Gore	Pastore
Bellmon	Gravel	Pearson
Bennett	Griffin	Russell
Cannon	Gurney	Smith, Maine
Cook	Hartke	Smith, Ill.
Cotton	Hollings	Stevens
Cranston	Hruska	Symington
Curtis	Jordan, N.C.	Thurmond
Dodd	Magnuson	Tower
Eastland	McGee	Tydings
Fannin	Moss	
Goldwater	Mundt	

So the concurrent resolution (S. Con. Res. 64), as amended, was agreed to, as follows:

The title was amended so as to read:

Concurrent resolution to terminate the joint resolution commonly known as the Gulf of Tonkin Resolution.

The PRESIDING OFFICER (Mr. SPONG). Without objection, the amendment to the preamble is agreed to.

The preamble, as amended, was agreed to.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, the passage of this concurrent resolution fulfills a great responsibility under the Constitution by the U.S. Senate. I wish to particularly commend the able Senator from Maryland (Mr. MATHIAS) who conceived this idea earlier this year. It was through his leadership that this measure reached final action in this body—first as an amendment to the Foreign Military Sales Act and now in the prescribed form of a concurrent resolution.

To the distinguished chairman of the Foreign Relations Committee, Mr. FULBRIGHT, who swiftly conducted the hearings and brought this measure to the floor, we must also render our thanks. His management of this resolution today and the explanatory basis provided by his presentation brought better focus on the meaning of this measure. In like manner, the distinguished Senator from New York (Mr. JAVITS), portrayed today his great grasp of the issues involved in this measure; and his participation truly generated a discussion of the highest quality on this meaning of this resolution. His dialog with the distinguished Senator from Louisiana (Mr. ELLENDER) produced a definition and a refinement of the issues that could only be brought about by the keen focus of these two fine minds.

To all the Senate, the leadership owes a debt of gratitude. I think the action to-

day of the Senate will receive the gratitude of history.

THAT GULF OF TONKIN RESOLUTION

Mr. YOUNG of Ohio subsequently said. Mr. President, on June 24 the Senate voted for an amendment to repeal the Gulf of Tonkin joint resolution. That amendment was a part of the Foreign Military Sales Act which, unfortunately, faces an uncertain fate in conference committee. Hopefully the Senate agrees to the concurrent resolution today repealing the Gulf of Tonkin resolution which was originally adopted, based on false statements made to the Senate and to the American people.

The Gulf of Tonkin joint resolution was passed by the Senate on August 7, 1964 in the midst of confusion and a flurry of half-truths misrepresentations, and downright false statements of an alleged submarine attack on the destroyer *Maddox* which in truth and in fact was never perpetrated. For nearly 6 years this ill-advised resolution has served as a prime foundation of our policy of escalation in Southeast Asia. The importance of our vote this day cannot be underestimated. We shall be removing the principal basis of our Asian war policy and demonstrating for the first time that a clear majority of U.S. Senators believe that our participation in an immoral, undeclared war in Southeast Asia should be ended.

Mr. President, the repeal of the Gulf of Tonkin joint resolution will mark a particularly proud moment for me. On March 1, 1966, more than 4 years ago, I joined with Senators Morse, Gruening, FULBRIGHT, and MCCARTHY in an effort to overturn that disastrous joint resolution. We were the only Senators who so voted at that time.

Our action today on the resolution to repeal the Gulf of Tonkin joint resolution marks a reassertion of the constitutional powers of Congress. Until this fraudulent resolution is cleared from the books, the Senate cannot as readily face the crucial issue of the division of warmaking powers between Congress and the President.

Once congressional acquiescence in a policy of escalation in Southeast Asia has been removed, the President must undertake a complete and systematic withdrawal of American troops from Indochina without delay.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 16968) to provide for the adjustment of the Government contribution with respect to the health benefits coverage of Federal employees and annuitants, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 16968) to provide for the adjustment of the Government contribution with respect to the health benefits coverage of Federal employees and annuitants, and for other purposes, was read twice by its title and referred to the Committee on Post Office and Civil Service.

EXPANSION OF THE UNITED NATIONS HEADQUARTERS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 867, Senate Joint Resolution 173.

The PRESIDING OFFICER (Mr. SPONG). The joint resolution will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A joint resolution (S.J. Res. 173) authorizing a grant to defray a portion of the cost of expanding the United Nations Headquarters in the United States.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. MANSFIELD. Mr. President, this is a straight up and down proposition. I have talked to the most interested Members on this matter.

I ask unanimous consent that there be a time limitation of 20 minutes on the pending proposal, the time to be equally divided between the manager of the bill, the Senator from Alabama (Mr. SPARKMAN), and the acting minority leader, the Senator from Massachusetts (Mr. BROOKE) or whomever they may designate.

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, my statement is very brief but I do have some facts and figures in the statement which I hope may be understood.

Mr. President, the purpose of Senate Joint Resolution 173 is to authorize a $20 million appropriation to the Secretary of State for a grant to be made to the United Nations to defray a portion of the cost of the expansion and improvement of its headquarters in New York City.

According to the Department of State, the total estimated cost of the expansion project is $80 million, of which about $64 million would be for construction of a new building and approximately $16 million for the renovation and extension of existing buildings in the United Nations Headquarters complex. In addition, the estimated value of the construction site, which is to be donated by the city of New York, is $12 million.

The financing for the proposed expansion project is expected to come from four sources: First, a $20 million grant from the U.S. Government; and second a $20 million matching cash contribution which has been promised by the mayor of New York City; third $15 million from the U.N. Development Program and the U.N. Children's Fund—an amount based on rentals these organizations would have to pay for quarters outside the U.N. complex; and fourth a $25 million appropriation out of the regular U.N. budget.

In addition, financial support for the project is being sought from other sources such as private U.S. foundations and New York park authorities. In this connection, when Ambassador Charles W. Yost testified before the Committee on Foreign Relations, he stated that any increases resulting from rising construction costs would have to be met from private contributions.

Mr. President, at the time the United Nations Headquarters was originally designed in 1947 and 1948, it was expected to accommodate sufficient staff to service a membership of 70 countries. In the meantime, however, the number of member states has increased from 59 in 1950 to 126 in 1970. Moreover, during the same period, the number of United Nations secretariat employees in New York requiring office space has grown from 2,900 to approximately 4,900.

As a consequence of the increasing inadequacy of existing facilities at the United Nations Headquarters in New York, the need for expansion has been under consideration by the General Assembly and the Secretary General for the past 10 years. The pending proposal is the result of a $250,000 architectural and engineering study which was authorized by the General Assembly on December 21, 1968, and submitted to the Secretary General on November 1, 1969. It was adopted by the General Assembly on December 17, 1969.

Mr. President, in my view, there is an urgent need for the construction of new facilities at the United Nations Headquarters in New York. It is my hope, therefore, that the Senate will approve Senate Joint Resolution 173 without delay.

Mr. President, I reserve the remainder of my time.

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

Mr. SPARKMAN. I yield.

Mr. ELLENDER. Mr. President, in connection with the $20 million we are granting to the U.N., I understood the Senator, in private, to state that all members would be contributing.

Mr. SPARKMAN. No, that is not what I said.

Mr. ELLENDER. They are not contributing on the same basis that we are.

Mr. SPARKMAN. Actually, each member of the U.N. is not assessed the same amount, because there are many small nations that cannot do it on that basis.

Mr. ELLENDER. I understand.

Mr. SPARKMAN. But the percentage of our contribution in this instance is not much larger than our regular contribution to the U.N.

Mr. ELLENDER. I do not think I agree, because the Senator said we contribute $20 million, and also $25 million would be contributed by the U.N.

Mr. SPARKMAN. By the U.N. itself.

Mr. ELLENDER. We put up 30-plus percent of that, so we are putting up 30-plus percent of the contribution of

whatever is put up by the U.N., plus $20 million.

Mr. SPARKMAN. That is correct.

Mr. ELLENDER. How much are the Russians putting up?

Mr. SPARKMAN. I cannot tell the Senator. I do not have the figure.

Mr. ELLENDER. I wonder if we could put that in the RECORD to show we are contributing a much greater share with the $25 million——

Mr. SPARKMAN. $20 million.

Mr. ELLENDER. No. We are putting up part of that $25 million.

Mr. SPARKMAN. That is true.

Mr. ELLENDER. And, in addition, we are putting up $20 million. Is that correct?

Mr. SPARKMAN. Yes.

Mr. ELLENDER. So it is not even. The Senator had better correct the RECORD, because we are putting in $20 million more than we should.

Mr. SPARKMAN. Pursuant to the terms of the pending proposal, the U.S. Government will grant $20 million to the United Nations and other member nations will also be making contributions.

Mr. ELLENDER. How? To the U.N.?

Mr. SPARKMAN. They will pay their share of the $25 million which is to be appropriated out of the regular U.N. budget.

Mr. ELLENDER. That is a contribution that is being put up by every nation.

Mr. SPARKMAN. That is correct.

Mr. ELLENDER. Is there any contribution aside from the $25 million that is coming from the member nations? The answer is "No."

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

Mr. ELLENDER. I would like to have an answer to that question.

Mr. SPARKMAN. I am told the Senator's statement is essentially correct.

Mr. ELLENDER. So we put up around 30 percent of the $25 million plus a bonus of $20 million.

Mr. SPARKMAN. Well, of course——

Mr. ELLENDER. Is that not correct? Let us not argue about it. Is that correct?

Mr. SPARKMAN. Yes.

Mr. ELLENDER. Very well.

Mr. SPARKMAN. But I think we should bear in mind that the U.N. headquarters will remain in the United States, and that there will be many benefits from it. I think the contribution on the part of the city of New York is an indication.

Mr. ELLENDER. Of course, it is good for New York, because many people will go there and stay at hotels there, and so forth; but I just want to get the record straight that again we are contributing much more than our share.

Mr. SPARKMAN. We are contributing more any other individual nation. I will put it that way.

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

The PRESIDING OFFICER. The Senator from Alabama has 2 minutes remaining.

Mr. SPARKMAN. I yield 1 minute to the Senator from Florida.

Mr. HOLLAND. Mr. President, I want to ask a question. Did I not understand that $16 million-plus is being contributed from funds that would otherwise go as rentals for UNESCO?

Mr. SPARKMAN. Approximately $15 million.

Mr. HOLLAND. Which fund comes in the main from other countries?

Mr. SPARKMAN. That is correct.

Mr. HOLLAND. There was another fund mentioned that comes from an agency that is supported only in part by the United States. What was that?

Mr. SPARKMAN. UNICEF.

Mr. ELLENDER. How much do we contribute to UNESCO?

Mr. SPARKMAN. I do not have the figures now.

Mr. ELLENDER. Here we have another contribution that we are making. In other words, we are contributing in four ways—UNESCO, the one the Senator just mentioned, $20 million and our other fees we pay for the $25 million contribution.

Mr. SPARKMAN. And so are the other nations.

Mr. ELLENDER. They do not.

Mr. SPARKMAN. They do.

Mr. ELLENDER. The Senator admitted that just now.

Mr. SPARKMAN. Mr. President, I want to reserve my last minute.

The PRESIDING OFFICER. The Senator from Massachusetts has 11 minutes.

Mr. BROOKE. I yield to the Senator from Delaware. (Mr. WILLIAMS).

Mr. WILLIAMS of Delaware. Mr. President, on May 11 the Senate Foreign Relations Committee approved the resolution by a vote of 6 to 5. The estimated cost of the project is $80 million. Of this amount—I think this answers somewhat the questions of the Senator from Louisiana—$20 million would be paid, under this resolution, as a direct grant of the U.S. Government, $20 million would come from the city of New York, $15 million from the United Nations development program, the U.N. children's fund, to which we contribute about one-third, $25 million would come from the U.N. budget, in which the United States share is 31.57 percent, plus the fact that we may have to make some additional contribution if other nations do not pay their proportionate share. That means we would be paying a substantial part of the cost.

I have supported over the years the principle of an organization for world government. I still support it, but I think we would have a stronger United Nations if all the other nations within that organization assumed the proportionate part of their responsibility. By so doing, they will feel they are a part of it.

As long as our country continues to pick up the tab not only for this construction project but for other projects and exempt other governments from their share of the cost, they are not going to feel they are a part of the organization, and therefore, I do not think it will be respected as much worldwide.

For that reason, I think this measure should be rejected. If the building is needed, it should be built by the United Nations itself out of its own funds, and let the proportionate part of the cost be shared under the formula of the United Nations and paid for by the respective governments that are going to use it. On that basis the United States will contribute its proportionate part, but I do not think it is fair for the United States to pay 85 to 90 percent of its cost.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. ELLENDER. Does the Senator know how much we contribute to UNESCO? Does he have those figures?

Mr. WILLIAMS of Delaware. No, not exactly.

Mr. ELLENDER. My recollection is that it is almost 60 percent.

Mr. WILLIAMS of Delaware. It could be.

Mr. ELLENDER. So that when the report shows that we are contributing 31.57 percent, that is of the $25 million that comes from the general fund. Am I correct in that?

Mr. WILLIAMS of Delaware. It is the U.N. Children's Fund and the U.N. Development Program that contribute $15 million. I do not know what percentage the U.S. Government pays, but of the $25 million to be paid by the United Nations itself, we are supposed to pay 31.57 percent. But we are having to pay a lot more than that since many of the countries do not make their payments.

Mr. ELLENDER. Of the $25 million contributed, it is estimated that we put up 31.57 percent of that fund?

Mr. WILLIAMS of Delaware. Automatically.

Mr. ELLENDER. In addition to that, we put up funds for UNESCO. In addition to that we are putting up $20 million. Then there is UNICEF. That is another contribution we make. The amount we are contributing will be closer to 50 percent than the 31.57 percent mentioned in the report.

Mr. WILLIAMS of Delaware. I think the amount contributed will be well over 50 percent of the total cost of this project.

Mr. BROOKE. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes.

Mr. BROOKE. Mr. President, I yield 1 minute to the Senator from Ohio (Mr. SAXBE).

Mr. SAXBE. Mr. President, there appears to me to be a conflict. The President has asked for a freeze on construction on at least two buildings. One, an important Federal building in Akron, Ohio, is being held up because of the inflationary pressures of construction. We hear arguments now that we should delay highway construction, even though those funds are earmarked, because of inflationary pressures. Here we are putting up $20 million for construction of a U.N. building in New York at the same time we have a freeze on construction of Federal buildings in Ohio.

Mr. BROOKE. Mr. President, I yield to the Senator from Virginia (Mr. BYRD).

Mr. BYRD of Virginia. Mr. President, through the years I have been a strong advocate of the U.N. I returned from Okinawa during World War II at the same time that the U.N. was established in San Francisco, so I have felt a strong rapport with that world organization.