

Cooper/Church Amendment

May 14, 1970

CONGRESSIONAL RECORD — SENATE

S7175

cerated in slave labor camps. In a remarkable political and logistical operation, a Polish army more than 100,000 strong was moved out of the Soviet Union via Iran, Iraq and Israel, to the Italian front which had just been opened up.

It is not commonly realized that, after the British and Americans, the Polish army which General Anders commanded was the third largest army to participate in the war on the Allied side.

The heroism of the Polish army in Italy is a legend which those of us who lived through those difficult times will never forget. In the historic battle of Monte Cassino, where the Germans had held out for many weeks against attacking Allied forces, it was the Polish army which finally seized the castle on top the mountain after storming up its bloody slopes; and in doing so, they opened the way to Rome for the Allied forces.

General Anders' death is a sad blow to the Polish exile community and to all men who cherish freedom throughout the world.

Mr. BYRD of West Virginia. In recognition of the very great contribution which he made to the Allied cause in World War II, I have today written to the Postmaster General of the United States urging that the Post Office issue a commemorative stamp in honor of Gen. Wladyslaw Anders. I earnestly hope that this proposal will meet with the approval of the Citizens' Stamp Advisory Committee.

SENATOR JAVITS PRAISES NATIONAL TV PRESENTATION ON VIETNAM BY SENATORS GOODELL, HATFIELD, MCGOVERN, CHURCH AND HUGHES

Mr. JAVITS. Mr. President, the compelling and reasoned articulation of the critical need to end the Vietnam war, presented by Senators GOODELL, HATFIELD, MCGOVERN, CHURCH, and HUGHES in their Tuesday night television broadcast to the Nation, was an excellent contribution to the current national debate on U.S. policy in Indochina. As a Senator who has worked closely on many occasions with these same Senators to gain peace in Vietnam, I wish to make clear my strong support for their stated objective of establishing how the Congress can contribute effectively to end the Vietnam war. The question for Senators like myself who agree on the policy objective is whether the amendment sponsored by this group is the best means for the Senate to invoke from the legislative and constitutional standpoints.

It is my hope and expectation that further consultation between the amendment's sponsors and other Senators like myself will lead to a procedure which will make possible the support of a solid majority in the Senate. Senators GOODELL, HATFIELD, MCGOVERN, CHURCH, and HUGHES have rendered an outstanding public service in the cause of peace through their broadcast to the Nation and in submitting their important legislative amendment to the Senate.

CONCLUSION OF FURTHER ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, further morning business is concluded.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time under the Pastore germaneness rule begin running as of now.

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

Mr. STENNIS. Mr. President, I address myself to the pending bill, particularly that part thereof known as the Church-Cooper amendment.

Referring to the area involved in Cambodia where we have crossed over the line to get at the sanctuaries, I requested the Department of Defense this morning to give me the actual figures, down to and including the latest available, with reference to just what had happened there since that part of the battle started, with reference to the capture of supplies, ammunition, and matters that go to make up military equipment, as well as the manpower situation.

About an hour ago the Secretary of Defense sent me this statement, which I shall read for the information of the Senate. I think it has a special place, too, in the RECORD.

Mr. President, in my opinion, during the few short days that this part of the battle has been going on, which is distinctly and essentially a part of the war in Vietnam, I think it has been relatively highly successful. I read this statement, a summary statement of the activities:

On the basis of current reports of the amounts of enemy supplies and equipment located so far in Cambodia by South Vietnamese and American forces, the weapons alone are sufficient to equip about 20 enemy battalions. More than 7,000 rifles and 1,000 crew served weapons (e.g., mortars and machine guns) have been captured, along with more than 8 million rounds of small arms ammunition, which would have supplied these 20 battalions for upwards of a thousand battalion-size attacks.

Those are enormous figures. Continuing the statement:

Food supplies located so far comprise almost five million pounds of rice, the basic food for Southeast Asia. This rice would have fed the entire enemy force in III and IV Corps in South Vietnam for 5 months.

We know that the III and IV Corps cover a very considerable area in South Vietnam. I wish that this had been given in terms of square miles, but that area is an important area, and a considerable area in square miles.

I quote again:

Twenty-two thousand mortar and rocket rounds have been found. This amount of munitions would have supplied about 3,000 fire attacks in South Vietnam of the same intensity that the enemy has been conducting in recent weeks—about seven rounds per attack.

That refers to the small, quick, rapid mortar and rocket attacks that they have been very successful in. This would have taken care of 3,000 such attacks.

I continue the quotation:

More than 5,400 enemy have been killed in Cambodia and about 1,400 have been detained. If earlier estimates of about 40,000 enemy troops in Cambodia are correct, this

loss by the enemy means that about 17 percent of his Cambodian forces have been destroyed.

Losses by the enemy thus far in terms of men, munitions, and supplies will indeed have a significant effect on his future operations.

That is the end of the statement.

Mr. President, that means that, almost within throwing distance of the line between South Vietnam and Cambodia, and really a part of the battlefield that our men are fighting on, and have been, all these arms and munitions and battle supplies have been found which could have been used and would have been used in the course of months. Certainly they would have been used against our men and the troops of South Vietnam.

Call it what we will about where the boundary line is, or what strict construction of the Constitution of the United States requires, this is a very significant thing, highly helpful to our position, enabling the saving of a great number of lives of our men and those of the allies. As a matter of fact, it is the first big thing that has been done in a long time that really does substantially contribute to the bettering of our position there.

Yes, Mr. President, it is true I am a strict constructionist of the Constitution. But the time has long since passed for making a strict construction here, when we have been sending these men into battle for months and years, and still are, right this minute—right this minute—not as a part of an act of aggression, but as a part of an action, now, of receding and trying to pull out.

It is under those conditions, and for those reasons—and because blood is being spilled, and lives lost, and will continue to be as a result of the use of just such ammunition as we are destroying here—that I say, let us not stay our hand now, and thus send the enemy word that, "You will never be subjected to this again."

I hope we can pull out. I wish we could pull out tomorrow, out of Cambodia, and stay out forever. But I know as long as we are there, engaged in these battles, we ought not to be sending word to the enemy, "We are going to leave you alone hereafter as far as this area is concerned."

That is what we will be doing if we pass a law saying that our Commander in Chief is prohibited from doing anything like this again, regardless of the circumstances, unless he can get another law passed.

There are a lot of things about this war that are not pleasing to me. We have made plenty of mistakes. But I pray we will not make this mistake. Not this one, sending such glad tidings to our adversaries, not only those in Hanoi, but those who are allied with them—Peking, Moscow, and others—that we are going to tie a part of our other hand behind us, and we are not going to proceed unless another law can be passed.

Mr. President, I believe that when all these facts are exposed, and this has sunken into the commonsense of the American people, their verdict will be, "No; do not do it."

This is not a time to be stepping in

here and stopping a procedure of battle that has every evidence of being highly profitable. There is no reason to promise now that we will never do it again unless we can get a law passed.

Mr. GRIFFIN. Mr. President, I wish to commend the distinguished Senator from Mississippi. Once again he has demonstrated that he is not only very learned and knowledgeable, but he is also a statesman as he rises at this point in the history of our country to say some things that ought to be said now on the floor of the Senate.

I am as concerned as any Senator about the prerogatives and the powers of the Congress, and particularly of the Senate.

But I do not understand the argument of some who support the amendment and variations thereof being talked about today. The Constitution says Congress shall have the power to declare war. Any Senator is perfectly within his rights if he wishes to introduce a resolution to declare war, or to argue the point that war ought to be declared or ought not to be declared, because the Constitution does say that Congress has the power to declare war.

It should be noted, however, that a declaration of war is a very broad policy declaration on the part of the Congress. On the other hand, the Constitution gives the President, as Commander in Chief of the Armed Forces, the responsibility to for military decisions, strategy, tactics, and so forth. In Congress we cannot, and should not, attempt to make battlefield decisions, or to draw precise lines or to make decisions regarding the time or scope of a battle, nor should we try to direct the Commander in Chief specifically with regard to how battles should be conducted, or exactly where they should be conducted. Such decisions are beyond the Constitutional powers of Congress and it would not be in the interests of the United States for the Congress to attempt to make such decisions. I am very much concerned that the amendment before us gets into that territory and that area of decisionmaking—areas which are appropriately and properly left to the Commander in Chief.

As one Senator, I would not favor a declaration of war at this particular time, under these circumstances. At an earlier point I think that might have been a question properly to be put to the Senate. It is somewhat of a moot question now, because under the facts as they have developed, we are as a matter of fact engaged in a war with North Vietnam and the Vietcong.

We are not engaged in a war with Cambodia. We have not invaded Cambodia, as some of the critics say over and over again. We are not challenging the Government of Cambodia. We are not contesting the Armed Forces of Cambodia. In fact, we are not even on territory that the Government of Cambodia has occupied or controlled during recent years.

In Cambodia we are involved in hostilities with the same enemy and we are fighting him on territory and on geography that the enemy, and not the Government of Cambodia, has occupied and controlled during recent years.

As we consider these amendments re-

solutions, particularly the so-called Church-Cooper amendment, it is important to keep in mind that one person is absolutely essential to the hope of negotiating a peaceful settlement of this war, and one person is absolutely essential to the success of an orderly withdrawal of our troops. Of course, that person is the President of the United States.

The credibility of the President of the United States is very important. That the President of the United States should be believed; that others realize that he means what he says and says what he means, is of utmost importance—not only in the United States, but more important, as far as the enemy is concerned. Because if the Senate should infer by the adoption of this amendment that we doubt, or do not believe the President, then how can we expect the enemy to believe what the President of the United States is saying?

Such an inference would not only be very damaging to the prospects for peace, but it would also be very unfair, I submit, to this President who has been cautious and very careful in his statements concerning the Vietnam war.

He has not made overly optimistic statements about our progress in the war. He has made no promises that he has not felt firmly convinced he could keep. On the basis of his record so far, surely this President is entitled to some good faith support on the part of Congress. He is entitled to the benefit of the doubt, particularly because the credibility of the President of the United States is so essential to the goals that we all want.

So, I believe the distinguished Senator from Mississippi is performing a great service today when he points out the dangers that are inherent in the amendment we are considering.

Even if we were to draft an amendment which was precisely tailored to the exact and actual intentions of the President, it seems to me that it would be a mistake to adopt such an amendment. We would be tying our own hands needlessly in a way that would serve the enemy, and would make it more difficult to negotiate with the enemy. I am sure the enemy would be delighted if we were to announce that we are going to tie our own hands in this way.

So I hope that, as this debate goes on, that Senators and the people will consider carefully what is at stake here, I hope and trust that the Senate will not take any action which will have the result of impeding the President in his efforts to withdraw our troops on an orderly basis and to negotiate a settlement of this conflict.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD of West Virginia. Mr. President, I am about to suggest the absence of a quorum, and I think Senators should be put on notice that this will be a live quorum.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[No. 145 Leg.]

Allott	Fulbright	Miller
Baker	Griffin	Packwood
Bellmon	Hansen	Prouty
Byrd, W. Va.	Hollings	Proxmire
Church	Hraska	Schweiker
Cook	Hughes	Scott
Cooper	Javits	Sparkman
Curtis	Magnuson	Thurmond
Dole	Mansfield	
Fannin	McGee	

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. YARBOROUGH), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. GOODELL), the Senator from Maryland (Mr. MATHIAS), the Senator from California (Mr. MURPHY), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

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

The PRESIDING OFFICER. A quorum is not present.

Mr. BYRD of West Virginia. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER (Mr. HOLLINGS). The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken	Gurney	Pastore
Allen	Hart	Pearson
Anderson	Hartke	Pell
Bible	Hatfield	Percy
Boggs	Holland	Randolph
Burdick	Inouye	Smith, Maine
Byrd, Va.	Jackson	Smith, Ill.
Case	Jordan, N.C.	Spong
Cotton	Jordan, Idaho	Stennis
Cranston	McCarthy	Stevens
Dominick	McClellan	Symington
Eagleton	McGovern	Talmadge
Eastland	McIntyre	Tower
Ellender	Metcalf	Tydings
Ervin	Moss	Williams, Del.
Fong	Muskie	Young, N. Dak.
Gore	Nelson	Young, Ohio

The PRESIDING OFFICER. A quorum is present.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be adopted en bloc.

Mr. GRIFFIN. Mr. President, I reserve the right to object, and at the request of other Senators, and in my own behalf as well, I am constrained to object.

Mr. MANSFIELD. Does the Senator object to considering the Cooper-Church amendment, which I assume is what he is directing his objection against? That is on the bill. That is one of the amendments put in the bill by the committee. It was done so regularly, through democratic and senatorial procedure, and I just wonder if there is going to be a stall against considering the Church-Cooper amendment in view of the conditions which face the Senate and the country today or whether we should consider the business which confronts this body.

Mr. GRIFFIN. Mr. President, if the distinguished majority leader will yield—

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. I certainly do not intend to indicate any objection to consideration of the amendment. Perhaps I misunderstood the majority leader's request. It was a unanimous request that it be adopted. Was it not?

Mr. MANSFIELD. That is right; that the committee amendments be adopted en bloc—the amendments which were reported favorably by the Committee on Foreign Relations, which happens to have jurisdiction of this particular bill.

Mr. GRIFFIN. Then I would respond to the distinguished majority leader in this way: Certainly, it is very much in order to consider committee amendments when they come before the Senate, and the Senator from Michigan is only preserving a right which is in accordance with the normal procedure, as I understand it. The Senate can, of course, adopt committee amendments by unanimous consent, but very frequently we do not do so; and when such an amendment is not adopted by unanimous consent the Senate is then in a position to vote on it.

Mr. MANSFIELD. Mr. President, I understand the objection raised by the distinguished Senator. I would say that usually, as a courtesy to a committee, almost always, committee amendments are offered and accepted en bloc.

I call up the first committee amendment.

Mr. STENNIS. Mr. President, will the Senator yield to me for a matter of information?

Mr. MANSFIELD. Yes.

Mr. STENNIS. As the Senator from Mississippi understood, the Senator's unanimous-consent request was that the amendments be adopted en bloc.

Mr. MANSFIELD. Yes.

Mr. STENNIS. As the Senator from Mississippi understands, the request was that they be agreed to all together.

Mr. MANSFIELD. That is right. Then, of course, the bill would be open to amendment.

Mr. STENNIS. But the Cooper-Church amendment would already be adopted.

Mr. MANSFIELD. It is in the bill, and it would be subject to amendment with the committee amendments—the same procedure as followed by the distinguished chairman of the Committee on Armed Services as to his proposals when they come out in legislative form, out of his committee.

Mr. STENNIS. If the Senator will yield further, of course the Senator from Montana knows there is divided opinion here about the Cooper-Church amendment. There was divided opinion in the Foreign Relations Committee on it. The Senator from Mississippi does not know whether it is going to take the turn of just a vote up or down on the Cooper-Church amendment, or the proposal of a substitute, or whether there will be a proposed amendment to that amendment. Certainly until something more could be known, the Senator from Mississippi would share with the Senator from Michigan the idea of objecting.

I point out that the Senator from Mississippi does not want to unduly delay the matter, but simply to delay it for the sake of debate or understanding. This is a far-reaching matter. It has been out of the committee only a short time, and they have done a lot of fine work on it.

So it is something we cannot agree to en bloc, or agree to have go by with just slight debate.

Mr. MANSFIELD. Mr. President, I think the Senator from Mississippi is under an illusion if he thinks we are trying to get by on the basis of a slight debate. We are not. We are facing up to a grave constitutional question, which I think the Senate should be unanimously behind, because it is the Senate's responsibility and authority, in my opinion, which is at stake. I am surprised that there are Senators who would place the position of this body in a secondary position. This is a most important issue, and I call up the first amendment.

The PRESIDING OFFICER. The clerk will state the first committee amendment.

The assistant legislative clerk read as follows:

On page 2, line 13, after the word "exceed", strike out "\$275,000,000 for the fiscal year 1970 and not to exceed \$272,500,000 for each of the fiscal years 1971 and 1972;" and insert "\$250,000,000 for each of the fiscal years 1970 and 1971";

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

Mr. GRIFFIN. Mr. President, I am going to make a point of order of no quorum, unless a Senator is ready to speak.

Mr. MANSFIELD. No, make the point of no quorum, and we will have a live quorum. We have something pending before the Senate now on which a vote can be taken, and on which discussion should be had.

Mr. GRIFFIN. I suggest the absence of quorum.

Mr. MANSFIELD. And, Mr. President, for the information of the Senate, this will be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 146 Leg.]

Boggs	Gore	Pastore
Burdick	Griffin	Pell
Byrd, W. Va.	Hansen	Percy
Church	Holland	Prouty
Cook	Hollings	Schweiker
Cotton	Jordan, N.C.	Stennis
Cranston	Jordan, Idaho	Symington
Dominick	Mansfield	Thurmond
Ellender	McIntyre	
Ervin	Nelson	

The PRESIDING OFFICER. A quorum is not present.

Mr. BYRD of West Virginia. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken	Gurney	Pearson
Allen	Hartke	Proxmire
Allott	Hatfield	Randolph
Anderson	Hruska	Scott
Baker	Hughes	Smith, Maine
Bellmon	Inouye	Smith, Ill.
Bible	Jackson	Sparkman
Byrd, Va.	Javits	Spong
Case	Magnuson	Stevens
Cooper	McClellan	Talmadge
Curtis	McGee	Tower
Dole	McGovern	Tydings
Eagleton	Miller	Williams, Del.
Eastland	Moss	Young, N. Dak.
Fannin	Muskie	Young, Ohio
Fong	Packwood	

The PRESIDING OFFICER (Mr. CRANSTON). A quorum is present.

Mr. MANSFIELD. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment beginning on page 2, line 13.

Mr. MANSFIELD. Mr. President, would the Chair please have the amendment stated?

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 2, line 13, after the word "exceed", strike out "\$275,000,000 for the fiscal year 1970 and not to exceed \$272,500,000 for each of the fiscal years 1971 and 1972;" and insert "\$250,000,000 for each of the fiscal years 1970 and 1971";

Mr. WILLIAMS of Delaware. Mr. President, I would hope that the Senate would accept the amendment. It does reduce the amount from \$275 million to \$250 million. It would restrict it to fiscal year 1970, which is about ended now and just for 1 year, 1971. This was all approved, as I recall, pretty much unanimously by the committee, and I would, therefore, certainly hope that the amendment would be agreed to.

Mr. MANSFIELD. Mr. President, I would hope that the Senate would follow the advice of the distinguished Senator from Delaware because this is a re-

request, and, because there was competition with his voice on the floor, I was unable to hear what the request was. Would the Senator be kind enough to tell me what it was?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The request was that the two amendments be considered en bloc.

Mr. HOLLAND. Mr. President, if the Senator will yield, since his proposed amendments apply to the amendment which we are going to consider tomorrow, since I think there are serious questions in connection with that amendment, which I would not want to see frozen by the adoption of any amendments today, I hope that the vote on the proposed amendment to the amendment may also be put off until tomorrow, so that we can see it as it is printed in the RECORD and find out just what its effect would be.

May I say to my distinguished friend that I also am concerned about another thing. As the Senator knows, the Constitution permits appropriations for the armed services to be made for 2 years, and the proposed amendment, I notice, in one or more places applies to amendments pursuant to this act or to any other act, which would cover appropriations made last year.

I hope that any proposed changes to this particular lengthy amendment would be deferred until we have a chance to see them. We are asked to vote for them, without even understanding what is in them.

Mr. CHURCH. Mr. President, in view of the objection raised by the distinguished Senator from Florida, I withdraw the amendment, and ask that it be printed. Copies of it will be available for Senators tomorrow.

I also ask unanimous consent that the text of the amendment, as proposed, be printed at this point in the RECORD, so that it will be available to all who read the RECORD tomorrow.

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

The amendment is as follows:

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

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

Mr. HOLLAND. I express my sincere appreciation to the Senator. I am not at all certain that I shall object in any way to the amendment, but I want to know what we are doing. As the Senator knows, if we vote on an amendment to this committee amendment, that part of the committee amendment becomes frozen, and I think that would be unwise; and I am glad he agrees.

Mr. CHURCH. I am happy to oblige the Senator. In so doing, I point out to him that the amendment in question does not relate to the prohibition of assistance to Cambodia which Senator COOPER and I have offered.

Mr. HOLLAND. I thank the Senator for his consideration.

Mr. CHURCH. Mr. President, I ask

unanimous consent that the names of the distinguished Senator from Illinois (Mr. PERCY) and the distinguished Senator from Indiana (Mr. HARTKE) be added as cosponsors of the Cooper-Church amendment. There are now 32 Senators cosponsoring the amendment.

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

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

Mr. CHURCH. I yield.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent, if it has not already been granted, that when the Senate adjourns today, it stand in adjournment until 12 o'clock noon tomorrow.

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

(Later, this order was modified to provide for an adjournment until 11:30 a.m. tomorrow.)

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

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

Mrs. SMITH of Maine. Mr. President, will the Senator yield for a brief statement on Cambodia?

Mr. CHURCH. I would be happy to yield the floor at this time to the Senator from Maine.

Mrs. SMITH of Maine. I do not care to have the floor. It will only take me about a minute. I will take the floor, if that is the Senator's wish.

Mr. CHURCH. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mrs. SMITH of Maine. Mr. President, yesterday I received a joint letter from the majority leader and the minority leader to me, in my position as ranking member of the Committee on Armed Services, urging that the committee give highest priority to legislation on Cambodia.

The letter had a tone of extreme urgency with respect to "the highest national interest."

But there seemed to be no particular urgency in the delivery and transmission of the letter because while the letter was dated May 7, 1970, it was not delivered to my office until 6 days later on May 13, 1970.

The Post Office Department cannot be blamed because the letter was placed in the "inside mail" box and did not leave the premises of the Senate in its transmission and delivery.

Apparently we need to reactivate the Pony Express and assign it to service with the U.S. Senate on matters of urgency of "the highest national interest."

Mr. MANSFIELD. Mr. President, I have sent for a copy of the letter which the distinguished senior Senator from Maine wrote to me on yesterday, which was hand delivered by her administrative assistant. I sent her a reply in which I expressed my regrets and apologized. I think I should make the RECORD clear.

That letter was written on the

seventh, on a Thursday, and I signed it on the seventh. I do not know who is to blame for it. I do not think the Post Office Department is to blame. I am sorry that it did take that long to be delivered.

I think the Senator from Maine was right in raising the questions she had because of the slowness in receiving a communication from the joint leadership. I am personally sorry that I did not think of using Senate pages to deliver the letter at that time. I apologize to the distinguished Senator for any inconvenience or embarrassment it may have caused.

I also sent the following letter to the other Senators, who were likewise delayed in getting the mail—to the chairman of the Appropriations Committee, the President pro tempore of this body, the senior Senator from Georgia (Mr. RUSSELL); to the distinguished senior Senator from North Dakota (Mr. YOUNG), the ranking Republican member of the Appropriations Committee; to the distinguished Senator from Mississippi (Mr. STENNIS), the chairman of the Armed Services Committee; to the distinguished Senator from Arkansas (Mr. FULBRIGHT), the chairman of the Committee on Foreign Relations; and to the distinguished Senator from Vermont (Mr. AIKEN), the dean of the Republicans in this Chamber, the ranking Republican member of the Committee on Foreign Relations. Those five Senators received this reply. I will read the letter to Senator AIKEN:

DEAR GEORGE: Please accept my apologies for the letter sent to you by the minority leader and me under date of May 7th which was not delivered until today, May 13.

I am indeed sorry that there was this delay in delivery. I do not think it is the fault of the Senate mail service. We should have used a page to deliver the letter. I am deeply sorry and I hope you will accept my apologies for any inconvenience and embarrassment this may have caused you.

With best personal wishes, I am
Sincerely yours,

MIKE MANSFIELD.

Mrs. SMITH of Maine. Mr. President, may I say to the distinguished majority leader that no apologies are necessary as far as I am concerned. I wondered about the urgency of the matter, first; but, second, I wondered what the value of the inside mail service in the Senate is to us in the Senate if it cannot be depended upon more than that was. I took it to be an extreme urgency, but apparently it was not that urgent.

Mr. MANSFIELD. Mr. President, the Senator is mistaken. It was a matter of some urgency. I had thought it would be delivered that night. I did send the letter in plenty of time. Unfortunately, that was not the case.

I just want to again publicly extend my apologies to the Senator from Maine and to set the RECORD straight so far as the Senator from Maine is concerned.

Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

ORDER FOR ADJOURNMENT TO 11:30 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, instead of the

Senate convening at 12 noon tomorrow, the Senate adjourn, upon the completion of business today, until 11:30 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATOR COOK TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the prayer and the disposition of the reading of the journal tomorrow, the distinguished Senator from Kentucky (Mr. Cook) be recognized for not to exceed 30 minutes.

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

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

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

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

Mr. CHURCH. I am happy to yield for questions.

Mr. DOLE. Mr. President, on Tuesday of this week, the junior Senator from Kansas submitted an amendment which I may offer as substitute language for the so-called Church-Cooper amendment. At that time I said, and repeat today, that I applaud the sincere efforts, of the Senator from Idaho, the Senator from Kentucky, and other sponsors of the Church-Cooper amendment; but I also share the concerns of others in this Chamber regarding the right of any President to protect American troops.

I am wondering whether the Senator from Idaho has had an opportunity to study the proposed amendment that I submitted on Tuesday. It reads:

In line with the expressed intention of the President of the United States, no funds authorized or appropriated pursuant to this Act or any other law shall be used to finance the introduction of American ground combat troops into Laos, Thailand, or Cambodia without the prior consent of the Congress, except to the extent that the introduction of such troops is required, as determined by the President and reported promptly to the Congress, to protect the lives of American troops remaining within South Vietnam.

This was commonly known in the other body as the Findley amendment. It was adopted by the other body and later dropped from the Military Sales Act.

It occurs to me this language does, in essence, what the authors of the Church-Cooper amendment intends to do or proposes to do. At the same time, it does give the President that right, the right which he might have in any event, to protect American troops remaining in South Vietnam.

I take this opportunity to exchange my views with those of the Senator from Idaho, if he has any comment to make.

Mr. CHURCH. I would say, first of all, to the Senator that the substitute he proposes would, in my judgment, render the Cooper-Church effort meaningless. If this language is adopted, the Senate will merely be making an idle gesture.

With all deference to the Senator, the exception he recommends provides a loophole big enough to drive the Pentagon through.

If we are to make a serious effort, within the constitutional powers of Congress, to establish the outer perimeters on American penetration into Cambodia, it will be necessary, then, to adopt the language that the committee approved, or something very close to it.

The proposed substitute offered by the distinguished Senator from Kansas is unacceptable. It would gut the amendment, rendering it meaningless.

Mr. DOLE. Let me say to the Senator from Idaho that that is not the intent of the Senator from Kansas. I am wondering, with reference to the Senator's amendment, would he concede, notwithstanding the language in the amendment, that the President has the constitutional power and the constitutional right and obligation to take any action he felt necessary to protect American troops.

Mr. CHURCH. I would say to the Senator that Senator Cooper and I have drafted our amendment in such a way as not to challenge the rights the President may have, under the Constitution, to act as Commander in Chief. We have also taken great pains to draft the amendment in such fashion as to assert powers that we believe are vested by the Constitution to the U.S. Congress. We have merely provided that the money appropriated by Congress shall not be available for the purpose of retaining American troops in Cambodia, or for the purpose of setting up an escalating military assistance program that could lead to an entangling alliance with the new Cambodian regime. These are the objectives of the amendment. They clearly fall within the power of Congress. They simply hold the President within the limits of his declared policy but, if he should decide later that these limits need to be exceeded, that the United States should extend its occupation of Cambodia, or enter into an obligation to come to the military assistance and defense of the Cambodian Government, then he would have to come back to Congress, present his case, and ask Congress to lift the limitations.

That kind of procedure reasserts the responsibilities the Constitution vests in Congress, powers which Congress should have been asserting down through the years.

With all deference to the distinguished Senator from Kansas, if we were to substitute his amendment in place of this amendment, we would merely be making an empty gesture.

Mr. DOLE. Mr. President, let me say and make it very clear that I share some of the reservations of the distinguished Senator from Idaho, and so stated at the outset publicly, that I hope our efforts in Cambodia were to protect American troops, and to keep the Vietnamization program on schedule, not an effort to shore up the Lon Nol government. Thus, I share the concern of the Senator from Idaho, the Senator from Kentucky, and others who have joined as cosponsors; but the point is that, notwithstanding the language in the Senator's amend-

ment, or consistent with the language in the Senator's amendment, does the Senator from Idaho agree or disagree that the President, as Commander in Chief, notwithstanding the passage of the amendment and the enactment of the amendment as part of the Military Sales Act, would still have the power, under the Constitution, to go back into Cambodia or any country to protect American troops?

Mr. CHURCH. Whatever authority the President has under the Constitution, Congress cannot take from him. That is, however, only one side of the coin. The other side has to do with the authority of Congress, as vested in it by the Constitution. The Cooper-Church amendment is designed to assert that authority in such a way as to keep the present Cambodian operation within the limits declared by the President as his objective. It is idle for us to write language regarding the President's own constitutional authority. That is why we have avoided any reference to the President or to his responsibilities as Commander in Chief. We have confined our amendment to that authority which belongs to Congress—determining how and where public money can be spent.

Further, the Senator mentioned, in connection with his proposed amendment, that the Senate had earlier passed an amendment, which became law, limiting the expenditure of funds in regard to the introduction of American ground combat troops into either Laos or Thailand.

That amendment passed this body on December 15, 1969. It reads as follows:

In line with the expressed intention of the President of the United States, none of the funds appropriated by this act shall be used to finance the introduction of American ground combat troops into Laos or Thailand.

We did not then go on to say—

... except to the extent that the introduction of such troops is required, as determined by the President and reported promptly to the Congress, to protect the lives of American troops remaining within South Vietnam.

It was not thought necessary, then, to say that. It is not necessary now. Whatever power the President has under the Constitution we cannot take from him. But we can establish limits on the expenditure of public money, so that, if he wants to exceed those limits, he must then come back to Congress, present his case, and ask us to lift the limitations.

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

Mr. DOLE. Mr. President, will the Senator from Idaho yield further?

Mr. CHURCH. I promised to yield to the Senator from Missouri. I shall then be happy to yield further to the Senator from Kansas.

Mr. SYMINGTON. Mr. President, for personal reasons, it was not possible for me to be on the Senate floor on December 15 last. I am interested in an article from the newspapers on that day, which pointed out that the White House endorsed the amendment with respect to Laos and Thailand as being consistent with administration policy in Southeast Asia. The article quoted the minority leader as saying:

After a White House meeting that President Nixon had told the Congressional Republican leaders that the prohibition, adopted yesterday by the Senate was "definitely in line with Administration policy."

Ronald L. Zeigler, the Presidential secretary, gave added emphasis to the Administration's acceptance of the Senate move by saying the White House regarded the prohibition as an "endorsement" rather than a "curbing" of Administration policy.

The amendment to the defense appropriations bill, adopted yesterday by a 73-17 vote, states: "In line with the expressed intention of the President of the United States, none of the funds appropriated by this act shall be used to finance the introduction of American ground combat troops into Laos or Thailand."

This wording, it was disclosed today, was approved by the White House in advance of adoption.

In the wake of the Senate action, the amendment, hastily drafted during a secret session on American military involvement in Laos, was being subjected to varying interpretations as to its significance and impact.

Senator Frank Church, Democrat of Idaho, the principal author of the amendment, described it as a "reassertion of Congressional prerogatives" in foreign policy, designed to make clear that the President could not commit combat troops to Laos or Thailand without the specific consent of Congress.

I have been in that part of the world many times, and do not see any major difference between the terrain and problems of any of those various countries; or differences with respect to what is or is not the authority of the President, or of the Congress, with respect to our relationships with said countries.

Does the Senator agree?

Mr. CHURCH. Mr. President, I agree wholeheartedly. As the Senator well knows, there lies within Laos as much of a threat to our forces as lies within Cambodia. In Laos, the Communist supply lines extend down the Ho Chi Minh trail. When we prohibited the use of any funds in the military appropriations bill for fiscal year 1970 for the purpose of introducing American ground combat troops in Laos, there was no outcry from the White House that this was undermining presidential authority or conveying a message to the world that we were trying to tie the President's hands. Yet, the same principles were involved then as are involved now.

All of a sudden, we are told that a series of ominous developments will occur if the Senate rouses itself from its lengthy slumber and begins to assert some of its constitutional authority.

Mr. SYMINGTON. Mr. President, I appreciate what the able Senator says, because this latest venture seems comparable to the point of similarity. It was in October that we found out, whereas the ground war in Vietnam was being deescalated openly, the air war over Laos was being heavily escalated in secret.

I am sure everyone wants to see hostilities out there lessened, and the whole business terminated at earliest opportunity.

Mr. President, I worry about all this sudden apprehension over the amendment now being offered by the able Senator from Idaho because of the parallel aspect of the amendment that everyone

seemed to agree on last December, only a few months ago.

I am especially worried because the people did not know what was going on in Laos until we finally got our hearings out to the public in April, many months after the testimony had been taken.

When it comes to Cambodia, no one in the Congress, to the best of my knowledge—and I am on both of the committees primarily involved—knew anything about it until well after our troops were in combat in Cambodia.

I hope that any apprehension on the part of any Senator with respect to Cambodia—an apprehension that was conspicuously lacking with respect to Laos or Thailand last December—does not mean there will be more wars out there; or that we will have more combat instead of less.

I thank the Senator.

Mr. CHURCH. Mr. President, I thank the distinguished Senator from Missouri. I agree with him that the action we in the Senate took last December came following disclosures made in executive session dealing with the extent to which we had been committed in Laos, without our having even been informed.

Basic constitutional questions are at issue here. Are we going to permit our Government to slide relentlessly toward all power being concentrated in the hands of one Chief Executive?

Are we going to permit our Government to become a Caesarism, or are we going to reassert the authority that the Constitution placed in Congress?

That is the fundamental issue. I find it very hard to understand why objection is being raised, when the limitations we seek to impose are so reasonable, so modest, and so much in conformity with the President's own declared purposes.

And it also raises the same question that the Senator from Missouri posed here earlier. Is there something else the President has in mind? Are we going still further, or returning to Cambodia again and again?

If that is the case, then all the more reason for setting the outer limits and for requiring the President to come here and seek our advice and consent concerning any move that would involve us still deeper in the morass of Southeast Asia.

Mr. SYMINGTON. Mr. President, I heard the Vice President of the Government of South Vietnam on the television this morning. The net effect of what he had to say was that he did not have any intentions of stopping at any particular line in Cambodia.

It seems to me this is another illustration of why the limitation on what we supply, as presented in this amendment, is so important. General Ky is going right ahead in Cambodia, based on what it was said he asserted this morning.

I wish that the statement made by our distinguished Ambassador to South Vietnam in executive session before the Foreign Relations Committee only this morning, and in reply to my bringing this interview up could be printed in the Record at this point. Of course, it cannot be. But I must say the whole Indo-

china operation is becoming increasingly disturbing.

I have never taken the floor before to criticize in this way the conduct of this war by this Administration; but I just do not want to see our people again in the position where they think we are doing one thing, only to find out later we were actually doing another.

I am puzzled about current policy of the United States, all over the world. Only a few days ago—I believe earlier this week—I went to a meeting in the House Office Building attended by many distinguished Members of the Congress.

Among those who talked in very strong fashion in support of now supplying badly needed planes to the State of Israel were the distinguished minority leader of the Senate, the Senator from Pennsylvania (Mr. Scott), and the distinguished minority leader of the House of Representatives, Representative Ford.

They assured the group gathered at this luncheon of their full support of Israel when it came to selling them the planes in question; good, because this is the only country that could sell them these modern planes, except for France and the Soviet Union.

I heard this morning also that 168 young Americans were killed last week in Southeast Asia. That is many more than have been killed for many weeks, as a result of these new offensives in Cambodia.

In effect for justification for our being in the Far East we are told the wars in Indochina are important to the security of the United States. We must defend this country against Communist satellites in that part of the world.

If it is important for us to defend the United States and all other countries of the free world against Communist satellites in the Far East, why is it not to our own interest, especially when we are the only country willing and able to do so, to sell airplanes to the one country that without any American military, the only country I know of so fighting without our assistance, is fighting Communist satellites in the Middle East?

This is one of those peculiar twists in the foreign policy of the United States that is not entirely clear to me.

Mr. President, let me commend the able Senator from Idaho. I listened for many hours to him and our colleague on the other side of the aisle, the senior Senator from Kentucky, when they drafted this amendment. I am glad to support it especially in that I note the able majority leader and the ranking Republican, not only of the Foreign Relations Committee, but of the Senate, are now also cosponsors.

Whereas I have full respect for the authority under the Constitution of the President of the United States, I have equal pride, under the advise-and-consent clause of the Constitution, for the prerogatives and rights of the Congress of the United States, of which I am a Member.

I thank my able friend.

Mr. CHURCH. Mr. President, I very much thank the Senator for his splendid contribution to the debate.

I remember, apropos of the Senate's

action last December in limiting the use of public money for the purpose of introducing American ground combat troops into Laos, that we took that action after we finally learned the facts. Things have come to a sorry pass in this country when neither the American people nor the Congress is even told that our country is being involved overtly in combat in a foreign country.

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

Mr. CHURCH. I shall yield to the Senator in just a moment.

What was true with respect to Laos is also true of Cambodia. We tried to find out what was planned for Cambodia. Twice the Secretary of State came to meet with the Committee on Foreign Relations, once on April 2 and again on April 27. At neither time were we told, nor was it hinted to us, that the President intended to order American troops into Cambodia.

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

Mr. CHURCH. I yield.

Mr. SYMINGTON. Would the Senator have included Cambodia in his resolution last December if he had had the remotest conception that we would be attacking Cambodia at this time?

Mr. CHURCH. If anyone had suggested that Cambodia was on the list, there is no question in my mind that Cambodia would have been added to Laos and Thailand. I am sorry it was not. Perhaps if we had added it then, we would not be faced with this serious crisis now.

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

Mr. DOLE. I take issue with the word "attack" used by the distinguished Senator from Missouri. I also remind him that another great Missourian, former President Truman, went into Korea without the consent of Congress.

Let me say to the Senator from Idaho that I supported and voted for the resolution on Laos and Thailand. The Senator knows the language of my substitute is almost identical with the language drafted with great care by the Senator from Idaho and others, except it has one additional provision.

Does the Senator believe the President, whoever he may be, has a right, notwithstanding whatever Congress might do, to protect American troops?

Mr. CHURCH. As I said before and will say again, whatever right the President has, is vested in him by the Constitution.

It is not within the legislative power of Congress to deny him that right. That is not what we are trying to do here. We are trying to assert the rights we have under the Constitution.

Mr. DOLE. I concur in that.

Mr. CHURCH. If the Senator would stop where we stopped in December and suggest, in line with what we have already done, that in the case of Cambodia, we adopt a similar amendment which would read:

In line with the expressed intention of the President of the United States, no funds authorized or appropriated shall be used to finance the introduction of American ground combat troops into Laos, Thailand, or Cam-

bodia without the prior consent of the Congress—

Then I would consider it as a substitute. It is the final language that undoes the limitation.

The final proviso reads, "except to the extent that the introduction of such troops is required, as determined by the President and reported promptly to the Congress, to protect the lives of American troops remaining within South Vietnam."

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

Mr. CHURCH. I shall yield to the Senator in a moment.

It is our responsibility here to set limits with respect to the spending of public money. We cannot undertake to define the President's power, but we can undertake to set limits on the expenditure of public funds. If the President feels those limits should be exceeded, let him come here and make his case.

Mr. DOLE. I appreciate the Senator's expertise. The Senator is an expert in this area and I wish to ask this question. In the event the Cooper-Church proposal passed, as in the case of the amendment last December, which was by a vote of 73 to 17, as I recall, does the Senator believe that takes away any right of the President or gives him more rights than he had under the Constitution? In the Senator's opinion would it mean that he had a right to protect American troops, if it meant crossing a border into Laos or Thailand? What is the Senator's best judgment?

Mr. CHURCH. My best judgment is that he did not send troops into Laos, which it was recommended that he do, because he recognized that Congress had established limits in the law with respect to Laos and Thailand. In other words, if we assert our authority, we can establish limitations which the President will respect. If he feels the need, he will come here and present his case. That was the role Congress was authorized to fulfill in regard to war and peace until we abdicated our authority, placing most of it in the President's hands. We do very little nowadays except vote the money, while leaving it to the President to decide who, where, and when we shall fight.

We have reached the point, however, where we must reassert our constitutional powers. We must now recognize that Congress must recover its authority in those areas that mean the most to the country, such as war and peace, and ultimately, the life and death of this Republic.

Mr. DOLE. Does the Senator from Idaho agree or disagree that a President, whether it be President Nixon or some other President, has the right under the Constitution to protect American forces? Does the Senator agree that he has this right, or does the Senator believe he does not have this right? Perhaps we can work out some accommodation on the language if we can agree.

Mr. CHURCH. I repeat to the Senator what I have said before, because it is the only way I know to say it. I do not believe the power lies with the Senate or the House of Representatives, or both bodies of Congress, to define the Presi-

dent's authority under the Constitution. That would be an act of futility.

On the other hand, we can move affirmatively within the bounds of our own powers, and that is what this amendment is designed to do. But if you "fudge" it up, then it is an empty gesture, and the Senate becomes nothing more than a fudge factory.

Mr. DOLE. I would like to ask the Senator, What happens if we agree to the amendment and then, the President finds it necessary to move troops across a boundary line? Is he then faced with another confrontation with Congress because we would not make clear what the President's rights might be in that case?

Mr. CHURCH. There is no doubt in my mind that if ever the safety of American troops is involved, then the President can make his case and the Congress will quickly move to do whatever is necessary to support the President in his efforts to safeguard American troops. There is no problem along these lines. That is a decision which should be shared between the President and the Congress, as the Constitution intended. It is not a decision which lies exclusively in the power of one man. The President can always come up here and present his case. If we draw no limits, then it is open to him to act alone, which he has been doing, and which his recent predecessors have been doing. In fact, it is this process which has gotten us stuck so fast in a bottomless bog in Southeast Asia.

Mr. DOLE. In the face of imminent danger to American troops, the Senator says the President must come to Congress and request the authority from Congress to give protection to these American troops?

Mr. CHURCH. I have said, and I do not think it is necessary to say it again—

Mr. DOLE. I feel it is necessary and beyond that vital.

Mr. CHURCH. That if the President should act under his authority, as vested in him by the Constitution of the United States, this authority cannot be diminished or withheld from him by Congress; but we also have authority that we can assert, and that it is the objective of the Church-Cooper Amendment.

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

Mr. CHURCH. I yield.

Mr. GORE. I have listened with a great deal of interest to this colloquy, which deals with a fundamental constitutional question. I would like briefly and impromptu to express some views.

The genius of our system is that we have coordinate, coequal branches of government, with checks and balances one upon the others and the others upon the one. The warmaking powers are vested in the legislative and the executive. A war cannot be waged except with the support of both.

By the rationale advanced by my distinguished and able friend the junior Senator from Kansas, the President would have the authority to launch an attack upon China tomorrow, or tonight, or at this moment, without the approval of Congress. China is a sanctuary, in-

deed the greatest sanctuary of the war, to the enemy in Southeast Asia. It supplies rice, ammunition, the supplies, equipment, and materiel of all sorts. So by that reasoning, by that rationale, without the approval of the elected representatives of the people, the Congress, indeed, even without any consultation with them, the President could say, it is in the interest of saving American lives, the lives of those who are now in Vietnam, to bomb, to attack, to eradicate the sanctuary in Red China.

Would not that be just as logical, just as constitutional, as what we have just heard?

Mr. CHURCH. I must concede that it would. The Senator's argument underscores the fact that the authors of our Constitution never envisioned that a President, on his own decision, would send American troops to a war in a distant, foreign country.

The whole purpose of placing the war power in the hands of Congress was to make certain that such a fateful decision would be formulated by the representatives of all the people, including the President, and not by the Chief Executive alone. Why, the framers of the Constitution would turn in their graves if they knew how the shared responsibility, which they provided in that document, has eroded away.

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

Mr. CHURCH. I am happy to yield.

Mr. GORE. This seems to the senior Senator from Tennessee a strange interpretation for one who is a self-proclaimed strict constructionist. I must say that I was struck by the lack of logic, by the lack of reasoning, by the absence of principle, when the President said to a group of Representatives and Senators, at which conference I was sitting beside the distinguished senior Senator from Idaho, that he would not go farther than 35 kilometers without the approval of Congress. I thought that strange. A President who, without the approval or even consultation with Congress, had ordered an invasion of a sovereign country by thousands of American troops was yet telling representatives of the people that he would not invade farther than 20 miles without the approval of Congress.

What is the difference in principle between 20 miles and 30 miles, or the whole country?

Mr. CHURCH. It escapes me.

Mr. GORE. The tragic mistake was ordering the invasion, the crossing of the boundary of a small neutral country. When the reaction in the country and in the world was adverse then to placate the Congress he promises about 50 of us that he will not invade farther than 20 or 21 miles without the approval of Congress and that all U.S. troops would be withdrawn from Cambodia by June 30, 1970. But now that the Congress wishes by this resolution to take his promise at face value, a lobbying effort is undertaken and the propaganda minions are unloosed to accuse those of us who wish to be strict constructionists of the Constitution where war or peace and the lives of American boys are con-

cerned of being unpatriotic. Deplorable, perfectly deplorable.

Mr. CHURCH. I thank the Senator from Tennessee for his comments.

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

Mr. CHURCH. I yield to the Senator from Rhode Island.

Mr. PELL. Along the line of the previous questions and points, when the patriotism of those of us who support this amendment, who believe our present policies wrong, is questioned by the two largest veterans' organizations, I think it is of interest to note that 82 percent of the sponsors of the amendment under discussion are veterans, as opposed to 71 percent in this body as a whole. I think it is an interesting statistic.

Now I would like to ask the Senator, who, as a lawyer, is more educated in the law than I am, and is also versed in international law, what is the difference between the sanctuaries in Thailand from which our bombers move and the sanctuaries in Cambodia from which the North Vietnamese move.

Mr. CHURCH. The difference is that the Thai sanctuaries are ours and the Cambodian sanctuaries are theirs.

[Laughter in the galleries.]

Mr. BYRD of West Virginia. Mr. President, may we have order in the galleries?

The PRESIDING OFFICER. The galleries will be in order.

Mr. PELL. I thank the Senator for that correct reply.

What would be the difference in international law if, just as we, the big brother of South Vietnam, have moved into Cambodia to extirpate North Vietnam's sanctuaries, let us say China, as big brother of North Vietnam, offered to extirpate our sanctuaries in Thailand. So far North Vietnam has intelligently resisted the blandishments of China, but suppose one day she succumbed. Would there be any difference in international law?

Mr. CHURCH. I say to the Senator that the sequence of possibilities he suggests exposes the weakness of the decision that the President has made to strike against the Cambodian sanctuaries. After all, all of Indochina behind the enemy lines constitutes the enemy's sanctuary, and, as the Senator has observed, we have our sanctuaries, too, in Thailand, in the sea around the Indochina peninsula—dominated entirely by American naval forces—and even, in a sense, in the air above the battleground, which is also dominated by American air forces.

If this war becomes a pursuit of sanctuaries, then, if past experience is any guide, our thrusts will be met by enemy counterthrusts, and the danger, of course, is that this will force a spreading of the war, perhaps beyond our imaginations.

Mr. PELL. I would like to ask another question of the Senator in the field of law, where I need perhaps to be educated a little more.

It has seemed to me that in the last few days that a new dimension has been added to the Cambodian invasion, or involvement, or incursion, or whatever we wish to call it, in that we are now not

only involved on the land and in the air, but we are also involved on the sea. We in the Committee on Foreign Relations took some note of that fact, and actually strengthened the amendment of the Senator from Idaho to cover the sea forces on the river. But at that time events were moving so fast that we did not realize that what seems to be a blockade would be extended at sea.

As I understand it, now there is what is called a protective patrol, which, from my memory of service in World War II, means a blockade, around Cambodia and South Vietnam up to the DMZ line.

In other words, we are treating Cambodia more sternly, when it comes to a naval blockade or whatever we call it, than we are Hanoi and Haiphong, which seems odd.

I was wondering if the Senator's recollection is the same as mine, that a blockade usually means war, is considered as an act of war or can be considered as an act leading to war.

Mr. CHURCH. The Senator is correct.

Mr. PELL. And, in order to be legal, does it not have to be effective, in other words total?

Mr. CHURCH. I would not attempt to pass judgment upon the legality of a blockade. The actual effectiveness of a blockade depends upon its totality.

Mr. PELL. All of these questions on which I am being educated bear out the necessity for the passage of the amendment under discussion, and I further affirm my delight and pride in being one of the cosponsors.

Mr. CHURCH. I thank the Senator very much for his generous comment.

Mr. HOLLINGS. Mr. President, will the distinguished Senator yield?

Mr. CHURCH. I am happy to yield.

Mr. HOLLINGS. Would the distinguished Senator pass on the legality as to the effective date? Is the intent, since it is an appropriations act, not until July 1? Is that the intent?

Mr. CHURCH. No; the amendment is written in such a way that it would take effect upon its enactment into law; that is, it would take effect immediately after signed into law by the President.

Mr. HOLLINGS. So, then, in that provision, for example, on page 5 at lines 4 and 5, "it is hereby provided that, unless specifically authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this Act or any other law," since the moneys presently being expended for the military activity are being expended under "any other law," it would, immediately upon signature, cut off funds for the present military activity in Cambodia at this time, or prior to July 1?

Mr. CHURCH. I would like to clarify that for the distinguished Senator.

Mr. HOLLINGS. Yes.

Mr. CHURCH. The amendment goes into effect upon enactment, but the amendment provides that no funds shall be appropriated, or no appropriated funds shall be used, for certain purposes. So the effect of the amendment has to be considered in the light of those purposes.

The first purpose is against retaining American forces in Cambodia. If it were to happen that this amendment could be affixed to this bill, could go to conference, could survive conference, and then go to the President for his signature before the current operations are finished—

Mr. HOLLINGS. Right.

Mr. CHURCH. The language of the bill would still be such as to permit the President to complete the present operation.

The amendment prohibits American forces from being retained, in Cambodia. The President has said he does not intend to retain American forces in Cambodia. He has assured the country that they will be coming out within the next few weeks, and that he will withdraw all American forces from Cambodia, in any case, on or before July 1 of this year.

So the amendment is drafted to permit him to proceed with the present engagement within the confines of his own declared policy. It would, however, prohibit him from changing that policy and retaining American forces in Cambodia, without first obtaining congressional consent.

Mr. HOLLINGS. But on page 5, that number, which is "retaining," is succeeded by No. (2), which says "paying the compensation or allowances of, or otherwise supporting, directly or indirectly, any U.S. personnel in Cambodia."

Mr. CHURCH. As instructors. This is the second objective of the amendment, which is to prohibit the use of funds for sending American military advisers and instructors into Cambodia in support of Cambodian forces. According to the President, there are none there now.

The President has stated, moreover, that the only military assistance he has thus far approved has been the transfer of small arms to Cambodia. Our purpose is to prevent that modest military assistance program, which involves no American personnel, from escalating into the transfer of sophisticated weapons, requiring American instructors and American advisers. This would move us into Cambodia as we moved into Vietnam, first with a modest military assistance program, then with military instructors, advisers, and personnel, and finally with combat troops.

Mr. HOLLINGS. Obviously, from the Senator's answer, he understands it clearly. But in this use of terminology, where some say we are "withdrawing" and others say we are "invading," we cannot tell which direction we are headed. Would the Senator object to a July 1 effective date, since he says all this is going to end by July 1 and since this is an appropriation act for the next fiscal year, and that is what the Senator intends and the President intends? Would that be all right?

Mr. CHURCH. I certainly would give it serious consideration. I would want to discuss it with other sponsors and co-sponsors of the amendment.

This particular point came up in committee hearings. I want to tell the Senator the reasons that we decided not to put the actual date into the amendment so that he will understand why it was that a specific date was not included.

The first reason was that it might be construed as an approval of the action, which concerned some members of the committee very gravely.

Second, it was felt that a dateline, though it is the President's own declared dateline, might be held up as a manacle to the President which would prevent him necessary latitude of a week or two if developments in the field made that desirable.

We wanted to give him all the flexibility he should reasonably have, while still taking him at his word, that we decided not to insert the date.

However, an argument can be made on the other side of that proposition; and I know the argument, I respect it, and I say to the Senator that any suggestion along that line would be one that we would seriously reflect upon.

Mr. CHURCH. Mr. President, I know that the Senator from Kansas wishes the floor, and I will not detain him much longer.

I do think it is interesting, however, in view of the questions he posed earlier, to remember that in 1846 President Polk sent American forces into disputed territory in Texas which precipitated the clash that began the Mexican War.

Abraham Lincoln was then a Congressman from Illinois, and he took strong exception to the Presidential decision that led to our involvement in the Mexican War. He wrote some memorable words concerning the Constitution and the intended limits on Presidential discretion in the matter of war. I should like to read those words to the Senate. Abraham Lincoln wrote:

Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so. Whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect, after you have given him so much as you propose.

The provision of the Constitution giving the war-making power to Congress, was dictated, as I understand it, by the following reasons. Kings have always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our convention undertook to be the most oppressive and all-kingly oppressions; and they resolved to frame the Constitution that no one man should hold the power of bringing this oppression upon us.

I yield the floor.

Mr. DOLE. Mr. President, I am aware of that quotation by Lincoln, and I am aware that he lost the next election. I am not certain it was because of his position on that issue.

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

Mr. DOLE. I yield.

Mr. CHURCH. I think it was. I think he did, indeed, lose the next election because he stood on a constitutional principle that he felt was more important.

Mr. DOLE. Mr. President, let me remind the Senator from Idaho, as I stated on Tuesday—and again today—that I approve in part, of his efforts. I know of his sincerity and that of the senior Senator from Kentucky.

Everyone, with the exception of some 17 Members, supported the Senator from

Idaho's amendment on December 15 of last year with reference to Laos and Thailand. I have quickly reviewed the debate on that amendment, and find no reference at all to protection of American troops. Of course, there was no reference to Cambodia because at that time Sihanouk was still in power, and it is understandable why we did not concern ourselves with that country at that time.

I can also understand why we did not address ourselves at that time to the very vital question—and perhaps the overriding question—in my mind and that of other Senators, and that is the protection of American troops and what right the President may have in respect thereto. We all recognize, and say publicly—that we should not be involved in another Vietnam, whether it be in Laos, Thailand, Cambodia, or wherever. But I remind my colleagues that President Nixon has kept the faith. He has kept his promises with reference to South Vietnam. He has announced troop withdrawals, and he has carried out each troop withdrawal on schedule—in fact, in some cases ahead of schedule.

It appears that in our efforts to circumscribe the powers of the President, we are saying to the President, in this instance, "Even though you say you will disengage from Cambodia on July 1, even though you are reducing the war in Vietnam, even though you have deescalated the bombing, even though you have reduced the number of troops by 115,000 and have announced another reduction of 150,000 since January 20, 1969, you are not to be trusted." So it is incumbent upon us, in the U.S. Senate and in the U.S. House of Representatives, not to literally handcuff the President of the United States.

We can always rely on the Constitution. I trust we always may have that right. It seems, however, that we should have some position on the vital question: Do we or do we not believe that the President of the United States, when American troops are threatened with imminent danger, has the right to move to protect them?

The language of my substitute, which I may offer as a substitute for the so-called Cooper-Church amendment, is identical for the most part to the language drafted by the senior Senator from Idaho last December. It contains just one proviso and one exception:

Except to the extent that the introduction of such troops is required as determined by the President and reported promptly to Congress to protect the lives of American troops remaining within South Vietnam.

Let me make it very clear that I share the concern expressed by the distinguished Senator from Idaho and do not want to become involved in a war in Cambodia. I would reject being in Cambodia to shore up the Lon Nol government. I do believe, however, we must give this President, or any President, the right to protect American troops who may remain in South Vietnam.

Therefore, the junior Senator from Kansas feels that either through some substitute language or some provision added to the so-called Cooper-Church amendment, it should be made clear that

this Congress recognizes that right of the President. I say to my friend from Idaho that it appears that by him not commenting directly on the question, I assume that one may see it either way—either the President has that right or the President does not have that right.

It also appears we are in general agreement as are most Members of this body concerning some of the basic purposes of the Cooper-Church amendment. But there are some—I count myself in that group—who want to make certain that the President of the United States, the Commander in Chief by the Constitution and the Chief Executive Officer by the Constitution, has that right when he determines it is necessary to protect the lives of American troops remaining within South Vietnam.

Extreme arguments can be made that perhaps the largest sanctuary is Red China or that there may be other sanctuaries in Laos or Thailand, and that this language could be used to undo what Congress feels it should do.

But if this issue is seriously considered, then what is really the question and what is being said to the American people is that this Congress lacks faith in the credibility of this President. But I would say again that the President of the United States, since January 20, 1969, has kept faith with the American people with reference to South Vietnam. He has kept his promise on troop withdrawals. The level of troop reduction is now 115,000 below the level when he took office. He has announced an additional troop reduction of 150,000, and that will be carried out on schedule.

The purpose of my exchange with the Senator from Idaho is to determine whether there may be some common ground or some area where not only the President can be accommodated, but also the consensus of Congress.

I recognize the power of Congress under the Constitution to declare war and the power of Congress to appropriate money. I am aware of the 2-year prohibition and know the purpose of that prohibition and agree with it.

Mr. President, the junior Senator from Kansas also recognizes that this issue has been raised ever since the time of George Washington—in almost every administration since then. Thus it seems, and I would hope that in the debate on the pending amendment perhaps some broad agreement can be reached. I would, therefore, again ask the Senator from Idaho, in all sincerity and with great respect, whether he believes, knowing the Constitution as he does, and knowing the rights and powers of the Congress and the President as he does, whether he believes that, in the event of danger to American troops and the need to protect the lives of those troops, does the President have that right?

Would the distinguished Senator from Idaho comment on that?

Mr. CHURCH. I would be very happy to comment. Is the Senator going to continue his remarks?

Mr. DOLE. Yes.

Mr. CHURCH. We are, then, going back again over the old ground—

Mr. DOLE. Let me say ahead of that—

Mr. CHURCH. I can answer the Senator. I will answer the Senator. The President of the United States, acting as Commander in Chief, has, in the past, and will in the future, take action he feels necessary to protect American troops in the field. We could not deny him his powers under the Constitution to do that, if we tried. But, we are not trying to do that with this amendment.

It is wrong to characterize this amendment as handcuffing the President of the United States.

It is wrong to cast it in the light of not trusting the President of the United States.

There was a reason that the Constitution vested certain responsibilities in Congress when it came to war and when it came to control of purse strings. Our Founding Fathers thought that that authority could better be exercised by many men rather than only by one man.

All this amendment attempts to do is to impose certain limits upon the use of public money, which is the prerogative of Congress. The amendment looks to two objectives; namely, one prohibits use of money to retain American forces in Cambodia—which the President says he does not intend to do; and, second, it prohibits the use of money to get us entangled in a new military alliance with the Cambodian regime in Phnom Penh.

Congress has that right. If the President later thinks that these restrictions on the use of public money should be lifted, then he can come here and make his case and we can decide.

But the insistence that, somehow, the exercise of the powers which were vested by the Constitution in Congress is an affront to the President of the United States, seems to me to be the most demeaning of all possible arguments that could be made where the integrity of Congress is concerned.

That is why I say to the Senator—and I have answered him several times over regarding it—that I think it is as plain as it can be, that we intend neither to handcuff the President nor to interfere with his right to act within his responsibilities under the Constitution, nor do we intend to raise questions concerning the sincerity of his purposes.

We simply undertake to impose, on our own responsibility, certain limits as to the use of public money. I think the time has come for us to do that.

If, indeed, the President should decide at a later date to plunge this country even more deeply into Southeast Asia, then I think he should come to Congress and ask for our consent.

That would be, I think, the result of this amendment. And I think it would be a healthy result for the institutions of this Republic.

Mr. DOLE. Mr. President, I thank the senior Senator from Idaho. Again, I believe there can be some area of accommodation here. I am certain that the Senator from Idaho is aware of the broad support that was enjoyed by him, on both sides of the aisle, last December for his amendment with reference to Laos and Thailand.

Therefore, if that language was adequate in December of 1969, it should be adequate in May of 1970.

It also occurs to me, there could be that same broad support simply by restating the Laos and Thailand amendment to read:

In line with the expressed intention of the President of the United States, no funds which shall hereafter be authorized or appropriated pursuant to this act, or any other law, shall be used to finance the introduction of American ground troops into Cambodia without prior consent of Congress.

Or perhaps some other language, just to make certain we protect the rights of those there at the present time. Because, as stated earlier, I supported the Senate amendment last December. I recognize the rights of Congress and its responsibilities under the Constitution. I would hope that, during the course of this debate, some agreement with reference to the pending amendment, or some substitute language therefor can be reached.

But, I repeat, whatever we may feel in this Chamber, I believe the American people would interpret action by the Senate, if the pending amendment were to be adopted, as a direct slap at the President of the United States for taking the action he deemed was necessary on April 30, to accomplish two things, to protect the lives of American troops and to keep the Vietnamization program on schedule.

Mr. President, it will be some months before we know whether the President's judgment was correct.

It will be several months before we know whether American lives were saved, and whether casualties were, in fact, reduced.

It will be several months before we will know whether, because of the action in Cambodia, the Vietnamization program can be kept on schedule.

Thus, whatever the intention may be—and I question no one's motives—but whatever the intentions may have been at the time, it appears clearly now that this amendment confronts the President of the United States, who has said time and again that on July 1, or before, all American troops will be withdrawn from Cambodia, and appears to question his judgment and his word as Commander in Chief.

I appreciate the response by the senior Senator from Idaho, and would assume from his response that he might agree, in the event of danger to American troops, that the Commander in Chief could use such powers he has under the Constitution, to do what he thinks appropriate to protect the lives of American troops, or other Americans for that matter.

Accordingly, I say to my distinguished colleague from Idaho, perhaps some accommodation can be made, to demonstrate to the American people that Congress wants to share the responsibility, that it has an obligation to share the responsibility, but in doing so, it will not take an indirect slap at the Commander in Chief, whoever he may be.

Mr. CHURCH. Mr. President, I have just one final word this afternoon. I believe that the discussion has made it clear that the central issue involved here has to do with the constitutional powers of

the Congress and the President in the matter of a foreign war.

In the May 14 edition of the Washington Post, a very impressive and scholarly article, written by Merlo J. Pusey, is published. It is entitled "Presidential War: The Central Issue."

The article is of such quality that it should be called to the attention of all Senators.

Mr. Pusey writes:

PRESIDENTIAL WAR: THE CENTRAL ISSUE

(By Merlo J. Pusey)

It would be a pity if the serious constitutional issue underlying the current protests against the war should be lost in the cyclone of threats, anti-Nixonisms and obscenities. However clumsy they may be in articulating it, the students do have a legitimate complaint. They face the possibility of being drafted against their will for service in a presidential war.

All the talk about pigs, revolution and smashing the establishment fails to alter the fact that, in one basic particular, the dissenters are the real traditionalists. Madison and Jefferson would have understood the anger on the campuses against the dispatch of young men to war in Southeast Asia at the dictation of one powerful executive. Madison and his colleagues wrote into the Constitution a flat prohibition against such a concentration of power. Yet it now seems to be accepted as standard American practice.

President Nixon reiterated his claim to the war power the other night in his news conference in explaining that none of his advisers was responsible for the invasion of Cambodia, he said:

"Decisions, of course, are not made by vote in the National Security Council or in the Cabinet. They are made by the President with the advice of those, and I made this decision."

The question of going to Congress for the decision or even of discussing the matter with congressional leaders appears not to have been considered. The result of the decision was to extend the war to another country. By any interpretation that may be placed upon it, this was a grave involvement for the nation. Most of our Presidents would have deemed it imperative to go to Congress for authority to take such a step.

Now the administration is resisting the attempt of the Senate Foreign Relations Committee to cut off funds for military operations in Cambodia. The committee has carefully tailored its restriction so as not to interfere with the President's avowed intention of clearing the sanctuaries and then withdrawing the American forces. But this has met with opposition from the State Department on the broad ground that actions of the Commander in Chief should not be subject to statutory restrictions.

There are several interesting phrases in this letter which Assistant Secretary David H. Abshire sent to the Foreign Relations Committee. He contends that Congress should not limit military spending in such a way as to "restrict the fundamental powers of the President for protection of the armed forces of the United States." The implication seems to be that the President has authority to send our armed forces anywhere in the world, for purposes which he thinks appropriate, and then to take whatever additional action he may think necessary to protect those forces. Under this reasoning, it seems, no one can do anything to stop a presidential war.

This view of the war power is not, of course, unique with the Nixon administration. President Truman made even more expansive claims to unlimited presidential power, and LBJ was not far behind. Mr. Nixon's State Department is merely mouthing what has become accepted doctrine in

the executive branch. But it is an outrageous doctrine that flies into the face of the letter and spirit of the Constitution and is repugnant to the basic concepts of democracy.

There is no principle about which the founding fathers were more adamant than denial of the war power to a single executive. After extended debate they gave Congress the power to raise and support armies, to control reprisals and to declare war, which, of course, includes the power of authorizing limited war. The President was given authority to repel sudden attacks, but there is nothing in the Constitution which suggests that this can be legitimately stretched to cover military operations in support of other countries in remote corners of the world.

In a literal sense, therefore, it is the students—or at least the nonviolent majority among them—who are asserting traditional, constitutional principles. It is the State Department which is asserting a wild and unsupported view of presidential power that imperils the future of representative government.

Somehow the country must get back to the principle that its young men will not be drafted and sent into foreign military ventures without specific authority voted by Congress. That is a principle worth struggling for. Congress now seems to be groping its way back to an assertion of its powers, but its actions are hesitant and confused, as if it were afraid to assume the responsibility for policy-making in such vital matters of life and death.

Of course Congress is at a great disadvantage when it tries to use its spending power to cut off a presidential war for which it has recklessly appropriated funds in the past. In these circumstances, the President is always in a position to complain that the result will be to endanger our boys at the fighting fronts. Congress seems to have discovered no sound answer to that warning.

But Congress could stop presidential wars before they begin by writing into the law firm prohibitions against the building of military bases in foreign countries and the dispatch of American troops to other countries without specific congressional approval. If Congress is not willing or able to devise some means of restoring the war power to the representatives of the people, we may have to modify our system of government so that the President would become answerable to Congress for abuses of power. In the light of our Vietnam experience, it seems highly improbable that the country will long continue to tolerate unlimited power in one man to make war.

Mr. President, it is this very objective, the objective of setting the limits to prevent our present incursion into Cambodian territory from becoming an unlimited new front in an expanded war in Southeast Asia that this amendment is offered. We can set limits now if we will only act. We can set these limits in strict accordance with the President's declared policy if we will only act. Then, should the time ever come when the President thinks a further extension of the war is justified, he would be obliged to come back to Congress, as he should have done in the first place, and lay his case before us. That was the kind of sharing of power the Constitution contemplated. It is time we got back to it in this country.

AMENDMENT NO. 628

Mr. GORE. Mr. President, I submit an amendment which I send to the desk and ask that it be printed and lie at the desk.

The PRESIDING OFFICER. The

amendment will be received and printed, and will lie on the table.

Mr. GORE. Mr. President, this amendment proposes to strike from lines 5 and 6 page 1 of the pending amendment the words "expedite the withdrawal of American forces from . . ." and insert in lieu thereof the following words: "... facilitate a negotiated peace in . . ."

The section presently reads as follows:

In order to avoid the involvement of the United States in a wider war in Indochina and to expedite the withdrawal of American forces from Vietnam, it is hereby provided . . .

As I would amend it, it would read as follows:

In order to avoid the involvement of the United States in a wider war in Indochina and to facilitate a negotiated peace in Vietnam, it is hereby provided . . .

What I seek to do by this amendment is to draw a clear distinction between a negotiated peace, on the one hand, and the policy of "Vietnamization," so called, which we have had since June of last year and which has not brought an end to the war and during the existence of which this country has suffered more than 50,000 casualties on the other hand.

Mr. THURMOND. Mr. President, adoption of the amendment being debated here today would prevent the President of the United States from taking future actions he might deem necessary to insure the safety of our 400,000 troops remaining in Vietnam.

Furthermore, tying the President's hands in the proper exercise of his role as Commander in Chief of our committed military forces, would certainly hamper the chances for success of the Vietnamization program.

In this connection it could delay the return home of some 150,000 more U.S. troops scheduled to come out of Vietnam by next spring. The President has promised faithfully to carry out this withdrawal but if we restrict him he may be unable to follow through.

Many argue President Nixon had no right to attack the Communist sanctuaries in Cambodia. It is my contention he had an obligation to do so. In taking this action he will undoubtedly reduce our casualties over the next year and also insure continued success of the Vietnamization program.

This limited action in Cambodia is within the range of power of the President as Commander in Chief of our Armed Forces. He was executing a constitutional prerogative, clearly supported by history. His power under article 2 of the Constitution as Commander in Chief is broad and sweeping. Many Presidents have committed American forces to combat in foreign countries without a declaration of war by the Congress. These operations, for the most part, did not involve an act of war by the United States against the country involved but were measures to protect American interests, personnel or troops. Most of these operations met with the approval of the governments whose territory was involved. And further, the vast majority of these operations were limited in nature and

scope, as is our present involvement in Cambodia.

Our fighting men have moved into foreign territory many times. In recent history President Truman sent U.S. forces into Korea and we fought there for several years without a declaration of war. President Eisenhower sent American forces into Lebanon and President Johnson sent them into the Dominican Republic and South Vietnam.

Generally accepted rules of international law support the President in the Cambodian operation. As a matter of international law when a neutral country like Cambodia cannot maintain its neutrality, and when the result threatens the lives of U.S. forces nearby, then the right of self-defense is clearly recognized.

The Cambodian operation is a limited military operation and it has been extremely successful. Can anyone in this Chamber deny that this action will, in the long run, reduce American and allied casualties in South Vietnam?

It seems to me the results of the operation to date should amply answer that question. As of today the Pentagon reported the following information:

Enemy killed	5,404
Detainees	1,431
Individual weapons captured	7,540
Crew-served weapons captured	1,071
Rice (tons)	2,499
Rice (man months)	109,956

"Man months" means the number of men who could live on that rice for a month.

Rockets (each) captured	9,405
Mortars (each) captured	13,384
Small arms ammunition captured	8,474,425
Land and personnel mines captured	1,384
Bunkers destroyed	3,318
Vehicles destroyed or captured	178

In the face of these figures, how can critics of the President dispute the fact this operation was needed, was successful, and will save American lives as well as shorten this war?

Mr. President, while the general thrust of this amendment argues for U.S. detachment from Cambodia, its provisions go much further. A brief examination of the amendment clearly supports this fact.

In paragraph 1 the amendment prohibits "the retaining of United States ground forces in Cambodia." This simply would prevent the use of American forces in Cambodia for any purpose at any time. It is unwise to tell the Commander in Chief and the military leaders in the field that the enemy operating from across the street can come over and attack you, but you cannot cross the street to his side in self-defense. There is no clear line defining this border and the present Cambodian Government is opposed to the use of their territory by North Vietnam as a military base to launch attacks against a friendly neighbor. President Nixon has described the Cambodian operation as limited in scope, and he predicts withdrawal of all our forces by July 1.

The President also stated any further operations into Cambodia to destroy the

Communist sanctuaries there will be conducted by the South Vietnamese. However, suppose a South Vietnamese force of several thousand should make a raid into the sanctuary areas of Cambodia and should be trapped and threatened with annihilation. This amendment would tie the hands of the President and the military leaders in such a situation to the extent they would be unable to launch a rescue operation should it be required.

Further, who is to say that the present Cambodian Government will not collapse and thereby open Cambodia to unrestricted use by the North Vietnamese? In such an event should we prevent the President from striking massive build-ups of enemy troops who are poised to thrust into South Vietnam and kill American soldiers remaining there? I will not be a party to such a restriction.

In paragraph 2 of the amendment the United States is prohibited from "paying compensation or allowances of, or otherwise supporting, directly or indirectly, any person in Cambodia who, first, furnishes military instruction to Cambodian forces; or second, engages in any combat activity in support of Cambodian forces."

Mr. President, the committee report on the Military Sales Act to which this amendment is affixed, states the purpose of this paragraph is to prohibit involvement of the United States in support of the Cambodians through the use of advisers or military instruction.

The President has already made it clear that such action is not presently necessary or desired. Furthermore, the Cambodian Government has not requested such support. Nevertheless, if the safety of our remaining forces in Vietnam would be enhanced by such action it seems unwise to me for the United States to telegraph to the world it would not undertake any steps in sanctuaries which threaten our fighting men in South Vietnam.

Paragraph 3 of the Cooper-Church amendment prohibits the United States from "entering into or carrying out any contract or agreement to provide military instruction in Cambodia, or persons to engage in any combat activity in support of Cambodian forces."

This paragraph could bring into question the legality of our support to the South Vietnamese Government should they decide their national security would be strengthened by providing military instruction or support to the Cambodians. These two countries are fighting the same enemy, the North Vietnamese, so why should the South Vietnamese be denied the right to work with their allies against a common enemy?

The Foreign Relations Committee report on this paragraph states its purpose is to "prohibit the United States from doing indirectly what cannot be done directly," such as paying for the services of "mercenaries or others who, without this provision, could be brought in to aid the Cambodian forces."

Mr. President, I submit we are supporting the South Vietnamese, and if their security is threatened by North Vietnamese forces in Cambodia, why

should we withdraw our aid if they find it necessary to strike the enemy sanctuaries there as is presently being done? Such an action by the South Vietnamese would surely aid the Cambodians, and this paragraph apparently would prevent any forces supported by the United States from aiding the Cambodians.

If the South Vietnamese deem it necessary to their own security to work with the Cambodian forces in defeating a common enemy, why should the United States stand in their way? That is what the whole Vietnamization program is about—allowing the people of these threatened and invaded countries to fight their own wars as best they can.

Finally, paragraph 4 raises another serious question. As stated in the amendment, it would prohibit "supporting any combat activity in the air above Cambodia by U.S. air forces except the interdiction of enemy supplies or personnel using Cambodian territory for attack against or access into South Vietnam."

In connection with this paragraph I raise this question: Who is to say where the North Vietnamese weapons of war are headed and for what use? Are these supply movements against the South Vietnamese or the Cambodians?

Mr. President, if we pass this amendment it will undermine the President in carrying out his constitutional duty to do his utmost to provide for the protection of our fighting men. Its passage would wreck any chance we might have left to obtain a just solution in South Vietnam by peaceful negotiations.

Finally, passage of this amendment would be met by jubilation in Hanoi, Moscow, Peking, and other Communist capitals throughout the world, as it would signal the waving of a white flag to the forces of tyranny and oppression.

Surely the Members of this body must realize that passage of this amendment would tie the hands of the President and Commander in Chief in many crucial areas which might not even be visualized in this debate. Its passage could deny him options which at some later time might be critical to the safety of our remaining forces in South Vietnam.

The Senate might be interested in knowing that during the War Between the States President Lincoln's conduct of the war did not always meet with favor from the Congress. As a result the Congress established a committee in January 1862, known as the Committee on the Conduct of the War.

This committee told President Lincoln how to manage the war, and there was considerable political meddling in military affairs. In his book titled "Lincoln or Lee," Author William Dodd wrote the committee "hounded the President" on the conduct of the war despite the great burdens on the President at that time.

Mr. President, we should avoid any such parallel in these modern times. The people of this country elected President Richard Nixon Commander in Chief in 1968. In 1972 they will have an opportunity to approve or disapprove of his conduct while in office. It would be nothing less than tragic if the legislative branch tries to take upon itself the dictating of military decisions clearly within the purview of the President.

Let us not make the U.S. Senate a war room from which we dictate tactics and strategy to a Commander in Chief who has pledged to Vietnamize this war. He has kept every pledge made concerning Vietnam. Some 150,000 of our troops have been successfully withdrawn and another 150,000 will be out by next spring.

The previous administration kept saying the war would end soon. President Nixon has made no such pledge, but he has pledged to gradually reduce our involvement. He does not desire an expansion of the war. He favors the opposite. It would be a tragic mistake to tie his hands and proclaim to the enemy that which he has been unable to win on the battlefield may now be won in the United States.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "President's War Power Threatened," written by David Lawrence and published in the Washington Evening Star of May 13, 1970.

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

[From the Washington (D.C.) Evening Star, May 13, 1970]

PRESIDENT'S WAR POWER THREATENED
(By David Lawrence)

For the first time in American history, the Senate Foreign Relations Committee has ignored not only the spirit but also the letter of the Constitution. It has approved an amendment to a bill which, if accepted by the Senate and the House, would deprive the commander-in-chief of the armed forces—namely, the President—of his power to conduct military operations. In the midst of a war, a congressional committee recommends a law to withhold funds unless its methods and restrictions are followed.

The principle is important to the security of the United States, which has joined with other countries—twice in Europe and twice in Asia—to prevent communism from taking over small countries and eventually dominating the free world.

By a vote of 9 to 4, the Senate committee has begun to say to the President that no matter what contingencies may arise, he must pursue a specified course with respect to Cambodia. He is being told to follow the rules outlined by the committee in connection with operations that the President feels are necessary to protect the remaining American troops in South Vietnam. Other senators are proposing modifications, and administration supporters are suggesting some, too.

Assistant Secretary of State David M. Abshire, in a letter to the committee, said that, while the amendment reported out by the committee coincides with the intention of the President concerning the limited role of American forces in Cambodia, "we do not consider it desirable that actions of the commander-in-chief should be subject to statutory restrictions."

Nobody knows just what the North Vietnamese may do after a substantial number of American combat troops have been withdrawn from South Vietnam. There is a possibility that attacks will be launched from bases in Cambodia and North Vietnam, and that the South Vietnamese will need all the help they can get in thwarting them. The President, as commander-in-chief, needs a free hand in dealing with military contingencies. This has always been the rule.

The amendment voted by the Senate Foreign Relations Committee would bar not only the use of U.S. combat troops in Cambodia but the employment of American advisers and instructors. The President, however, has to look at the problem on a long-range basis.

He must be sure that the American troops who are left in Vietnam for the time being are not threatened by any major offensive, for this could mean the loss of many lives.

Nixon has said that by July 1 our troops will be out of Cambodia. The enemy has not started any offensives that could interfere with such a decision, but, in a war, nobody knows when or from what direction an attack may come. This is why the commander-in-chief must have the widest discretion in the use of troops and equipment.

Interference by Congress in the actual operation of the armed forces is a serious thing at any time. But nowadays the Communists can derive much encouragement from such a situation. They may feel inclined to take chances on the theory that the President will not dare to return any troops to Vietnam once they have been removed. A big assault might therefore be launched by Hanoi against the remaining Americans and the South Vietnamese after a major part of the U.S. forces have been withdrawn.

There has been plenty of opposition in Congress by isolationists before wars began. But during a war no attempts have been made actually to impair military movements on the use of armies or navies. This has been left to the judgment of the commander-in-chief.

It may be that if a constitutional convention is called some day, as has been proposed in recent years, a new amendment will be offered to restrict the powers of Congress so that there can be no possible right to interfere with the flow of appropriations necessary to maintain a military operation in the midst of a war. For once the commander-in-chief has committed troops in an expedition designed to thwart an international enemy like the Communists and to prevent eventual attacks on the United States itself, the power to deal instantly with developments must be, as heretofore, within the discretion of the President.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW, AND RECOGNITION OF SENATOR STENNIS AFTER REMARKS OF SENATOR COOK

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on tomorrow, at the conclusion of the remarks of the able Senator from Kentucky (Mr. COOK), there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes; and that immediately following the transaction of routine morning business, the unfinished business be laid before the Senate, and that the able junior Senator from Mississippi (Mr. STENNIS) be then recognized for not to exceed 1 hour.

The PRESIDING OFFICER (Mr. BELLMON). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 856. An act to provide for Federal Government recognition of and participation in international expositions proposed to be held in the United States, and for other purposes; and

S. 2999. An act to authorize, in the District of Columbia, the gift of all or part of a human body after death for specified purposes.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1970

Mr. BYRD of West Virginia. Mr. President, I ask that the Chair lay before the Senate the message from the House of Representatives on House Joint Resolution 1232.

The PRESIDING OFFICER laid before the Senate the joint resolution (H.J. Res. 1232) making further continuing appropriations for the fiscal year 1970, which was read twice by its title.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the joint resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BYRD of West Virginia. Mr. President, I have been asked by the able Senator from Louisiana (Mr. ELLENDER), who is the acting chairman of the Senate Appropriations Committee, and who is presently presiding over a meeting of the Appropriations Committee, to present this joint resolution to the Senate. It has been cleared with the minority. As I understand it, there is no objection from the minority to the consideration of this matter at this time.

That being the case, I shall proceed with a brief statement which was prepared by Senator ELLENDER, and which he has asked that I read in his stead.

Mr. President, this joint resolution is absolutely necessary in order to avoid payless pay days for Government employees and the interruption of veterans' readjustment benefit payments.

The second supplemental appropriation bill, 1970, passed the House of Representatives on May 7 and it was received and referred in the Senate on Monday, May 11. The President has submitted additional budget estimates to the Senate for consideration in connection with this appropriation bill, and these budget estimates were filed at the desk here in the Senate on May 11. It is obvious that the Committee on Appropriations is going to have to hold additional hearings to give appropriate consideration to this bill. Consequently, the bill cannot be considered on the floor of this body in the very near future. The bill as it passed the House provides funds for pay increases and also for veterans' readjustment benefit payments.

Senators will recall that salaries of Government employees were increased effective July 1, 1969. In addition, there was a 6-percent retroactive pay increase effective generally on December 27, 1969. None of the appropriation bills which were enacted into law for fiscal year 1970 provided funds to finance these pay increases, but the increased payments have been made to personnel throughout the fiscal year, as authorized, for these two pay increases. As a result, practically the entire Federal Government will be out of funds at some time in the near future. The first agency to be affected is the Bureau of Commercial Fisheries in the Department of the Interior, which the committee has been