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

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

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

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

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

SENATOR JAVITS PRAISES NATIONAL TELEVISION 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, is 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 President Johnson on the 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 standpoint.

It is my hope and expectation that further consultation between the amendment sponsors and other Senators like myself and Senate staff will produce 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 ending the war. I wish them success in their efforts.

CONCLUSION OF FURTHER ROUTINE MORNING BUSINESS

May 14, 1970
CONGRESSIONAL RECORD— SENATE

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 Record of my personal remarks rule begin running as of now.

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

Mr. STENNIS. Mr. President, I address myself to the question immediately in order to give 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 into the hands of the Vietcong, I requested the Department of Defense this morning to give me the actual figures, down to and including the latest available, with reference to how much 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, today, in the Foreign Aid Bill.

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 Vietnam War in Vietnam, 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 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 18,000 rounds of small arms ammunition, which would have supplied these 20 battalions for upwards of a thousand days.

These are enormous figures. Continuing the statement:

Food supplies located so far comprise almost five million pounds of rice, the basic food for South Vietnamese forces. Food has fed the entire enemy force in III and IV Corps in South Vietnam for 5 months.

We know that the Third 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 as those being conducted in recent weeks—about seven rounds per attack.

That refers to the small, quick, rapid mortar and rocket attacks that have been very effective. 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 on the assumption 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.

That is the end of the statement and the report. It 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 men resources and man resources, and supplies and supplies that have been discovered, and used and in use, have been used and have been used in the course of months. Certainly they would have been used and the men men and the soldiers would have been killed, and the South Vietnam.

Call it what we will about the boundary line is, 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 men and all 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. The time has long 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 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 we 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 knowing that we will never be subjected to this again.

I hope we can pull out. I wish we could pull out tomorrow, out of Cambodia, and that that will end it. 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. 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—to be 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 happened, into the common sense 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 ceased in January. 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 kind, but that he is also statesman as he rises at this point in the history of our country to say something that ought to be said now on the floor of the Senate.

It is expected by 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. And if effectively within this right 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 says that Congress has the power to declare war.

It should be noted, however, that a declaration of war is a very broad policy declaration. I'm referring to the powers of the Congress. On the other hand, the Constitution gives the President, as Commander in Chief of the Armed Forces, the responsibility for military decisions, strategy, tactics, and operations. In Congress 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 would not be in the best 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 decision making—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, not involved in 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. We are not employees of the territory that the Government of Cambodia has occupied or controlled during recent years.

In Cambodia we are involved in facilities 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 nego-

tiating a peaceful settlement of this war, and it 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 President of the United States is essential to the success of the United States should be believed; that others realize that he means what he says and says what he means, and that his words are not meaningless—not only in the United States, but more impor-
tant, as far as the enemy is concerned. Because if the Senate should in-

fer 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?

Surely, this is not only not 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 con-
cerning 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 firmly convinced he could keep. My 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 credibil-

ity 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 craft an amend-

ment that was adhered to the exact and actual intentions of the Presi-
dent, it seems to me that it would be a mistake to adopt such an amendment.

We would be tying our own hands need-

lessly in a war that must 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 con-
sider carefully what is at stake here, I hope and trust that the Senate will not take any action which will have the re-

effect of impeaching the President in his ef-

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

[No. 145 Leg.-]

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| 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 Alabama (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. Magnuson), 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. Young) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett), the Senator from Massachusetts (Mr. Buckley), 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. Saxe) are necessarily absent.

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

The PRESIDING OFFICER. The 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 Ser-

gent at Arms will execute the order of the Senate.

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

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| 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 on 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 us today.

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 on bloc—the amendments which were reported favorably by the Committee on Foreign Relations, which happens to have jurisdiction in 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 adopt 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 on 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 on bloc.

Mr. MANSFIELD. Yes.

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

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. 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 Missouri 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 proposal for a substitute 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 on 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 Senator should be unani-

ously behind, because it is the Senator'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 1972 and not to exceed $275,000,000 for each of the fiscal years 1971 and 1972" and insert "$250,000,000 for each of the fiscal years 1971 and 1972".

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 are considering 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.
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 President: The request was that the two amendments be considered en bloc.

Mr. HOLLAND: Mr. President, the Senator from Maine, I believe, 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 have to be seen to be 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 you know, 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 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 objections 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 be published, as proposed, be printed at this point in the Record, so that it will be available to all who read the Record tomorrow.

The President: 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 6, 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 amendment, if part of the committee amendment becomes frozen, and I think that would be wise, and I am glad we agree.

Mr. CHURCH: I am happy to oblige the Senator. I am going to 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. CHURCH: I think the Senator for his consideration.

Mr. CHURCH: Mr. President, I move

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

The President: The amendment, without objection, it is so ordered.

LATER, THIS ORDER WAS MODIFIED TO PROVIDE FOR AN ADJOURNMENT, UNTIL 11:30 A.M. (EASTERN)

ORDER FOR AJOURNMENT

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 President: The order is so ordered.

LATER, THIS ORDER WAS MODIFIED TO PROVIDE FOR AN ADJOURNMENT, UNTIL 11:30 A.M. (EASTERN)

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 1582) to amend the Foreign Military Sales Act.

Mrs. SMITH of Maine. Mr. President, I ask unanimous consent that the Senate adjourn 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 to take the floor, if that is the Senator's wish.

Mr. CHURCH: I yield the floor.

The President: 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 me to 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 reevaluate 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 am 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 for the trouble. However, the policies for any inconvenience or embarrassment this may have caused you.

With best personal wishes, I am,

Sincerely yours,

Mike Mansfield.

Mrs. SMITH of Maine. Mr. President, I say to the distinguished Majority Leader that no apologies are necessary as far as I am concerned. I was more concerned about the urgency of the matter, first; but second, I wonder 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, and I think it is not 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 should be able to deliver the letter 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 in 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

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, who 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 or 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 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 perimeter 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 proposed that 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 would 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 say that 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, enter into obligations to Cambodia 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 programs in the right direction to keep us out of the war. I would like to make as clear as possible that I think our efforts in Cambodia were to protect American troops, and to keep the Vietnamization programs in the right direction to keep us out of the war.

Mr. CHURCH. I will concur, with 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 amendment, 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 Senate's 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 you will, the Constitution. The Cooper-Church amendment is designed to assert that authority in such a way as to keep the present Cambodian operations 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 Congress, to protect the lives of American troops remaining in 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 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 which appeared 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:
May 14, 1970

CONGRESSIONAL RECORD—SENATE
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After a White House meeting that President Nixon attended, the Congressional Republican leaders that the prohibition, adopted yesterday by the Senate was "definitely in line with Administration policy."

President's Secretary, gave added emphasis to the Administration's acceptance of the Senate move by saying, "based on a "curbing" of Administration policy."

The amendment to the defense appropriations bill, which was approved by a 3-1" vote, states: "In line with the expressed intention of the President of the United States, none of the funds made available by this Act shall be used to finance the introduction of American ground combat troops into Laos or Thailand."

In that 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 subject to various interpretations as to its significance and impact.

Senator Frank Church, Democrat of Idaho, said that "the amendment, as described it as a "Presumption of Congressional prerogatives." In foreign policy, designed to make clear that the President could not commit American ground 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 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 sellers extend down the Ton Chai Minh Trail. When we prohibited the use of any funds in the military appropriations bill for fiscal year 1979 for the purpose of introducing American ground combat troops to Laos, that was similarly a vote from the White House that this was undermining presidential authority or conveying a message to the world that we were trying to put the blame on" 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, the Senate rules itself, from its lightly slumber and begins to assert some of its constitutional authority.

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

I am sure everyone wants to see hostilities out there lessen, 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 not only 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, where 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 apprehensions 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 that 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 commit itself 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 make sure 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 purpose.

And it also raises the same question that the Senator from Missouri posed. Why is it that 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 we put the outer limits and for requiring the President to come here and seek our advice and consent concern any move that would involve us still deeper in the morass of Southeast Asia.

Mr. SYMINGTON. Mr. President, I heard the Vice President of the Government of South Vietnam on the television this morning. The net effect of what he had to say was that we have not demonstrated any intention 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 Kao 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. 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 in any position where we 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. I believed this week I was going to meet in the House Office Building attended by many distinguished Members of the Congress. Among those were some very strong people 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, and the minority leader of the House of Representatives, Representative Pombo.

They assured the group gathered at this luncheon of their full support of Israel, then it came to be reported the planes in question, good, because this is the only country that could sell 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 it justifies our being in the Far East to the war in Indochina, and I must say the United States, I must say the 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 cannot afford to, any country that is not the only country to know of now fighting without our assistance, is fighting Communist satellites in the Middle East?

This is one of those peculiar twists in the design political-military, 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 colleagues on the other side of the aisle, the Senate in Kentucky, when they drafted this amendment. I am glad to support it especially in that I note the able majority leader, and the ranking member 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 going on in 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 shall 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 with our troops?

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 these, 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 that if 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 have been appropriate.

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 Cambodia without the prior consent of the Congress—

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

And if we could read, "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 understand 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 is considered in 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 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 limits in 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 and military decisions of 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 assert 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 launch an American war?

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 President'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 in that, if this amendment is designed to do what 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 a question. 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 not have been left to 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 by either 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 on upon the others and the others upon one. The warmaking powers are vested in the legislative and the executive. A war cannot be waged except with the support 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 enemies in Southeast Asia. It supplies 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 President's orders for the military, 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 bomb, to attack, to destroy, to kill in Vietnam.

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 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 was not made by the President. The framers of the Constitution, 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 me 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 principles, when the President said to a group of Representatives and Senators, at which conference I was sitting but not participating, the Senator from Tennessee, the Senator from Indiana, that he would not go farther than 35 kilometers without the approval of Congress. I thought that strange. A President who, without the approval of Congress in the context, 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 35 kilometers 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 was adverse then to place 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 of us, the 99 of us, will be in 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 understood to be the propaganda ministerial unassuaged 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 concerned being un-American, 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 answers, when the patriotism 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 32 percent of the members of the American Legion and more than 71 percent in this body as a whole, I think it is an interesting statistic.

Now I have, a 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, which are under the control of the Thais, and the sanctuaries in Cambodia from which the North Vietnamese come?

Mr. CHURCH. The difference is that the Thai sanctuaries are ours and the Cambodian sanctuaries are not.

Lawyers 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 think the Senator for that correct resolution.

What is 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, the big brother of North Vietnam, is 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 doctrine that has been 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, 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 such a law, that Fact that actually strengthened the amendment of the Senate 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 we were doing was to block and extend 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 blockading, but a new law takes 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 have ever done before, which seems odd.

I was wondering if the Senator's recollection is the same as mine, that a blockade usually means war, and is 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 the character of the forces.

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 that the intent, since it is an appropriations act, not until July 1? Is that the intent?

Mr. CHURCH. No, the amendment is so worded 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, of the act, if the money is hereby provided that, unless specifically authorized by law hereafter, that we have now in course in Cambodia after enacted, no funds authorized or appropriated pursuant to this Act, or any other law, that the moneys presently being expended for the military activity are being expended under any other law, it would, immediately upon signature, cut off the 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 specifically, the section that 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, the President's authority to send American forces into Cambodia would be curtailed, and so it is argued by the Senate, that the President would have to seek the advice of Congress, which is perfectly all right, but I do believe that this is a principle that we should fight for.

Second, let it be pointed out that it is the President's own-declared date which he has said he has for this intervention. I am in complete agreement with him. I think that the shape of things in the near future, the President should be in control of the situation. I believe that the President's authority to act on the situation is limited, but I do believe that he should have the authority to act.

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

However, an amendment 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 the President, in his visit to South Vietnam, made the statement that American forces into disputed territory in Texas which precipitated the clash that began the Mexican War.

Abraham Lincoln was then the President. He was not in a conflict with the President. It is only a strong exception to the President's decision that led to our involvement in the Mexican War. He wrote some remarkable words concerning the Constitution. The Constitution is broad enough to delegate the President's discretion in the matter of war. I should like to read those words to the Senator. 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 there is the difference. I do not want to study to see if you can fix any limit to his power in this respect, after you have given it to him. The Constitution, as the President has defined it, as you have previously defined it, is a provision for the prevention of invasion of territory from without. The President, in his authority and duty, is to repel invasion. The provision of the Constitution giving the war-making power to Congress was dictated by the necessity of guarding against invasion, and for no other reason. Kings have always been invading and impoverishing the people of their states, precluding general safety, if not always, then much more frequently, because of the effectiveness of their arms. The President has the power to repel invasion by his own authority and discretion, and it is his duty to prevent the Constitution that no one man should hold the power of forming this oppression upon us.

I yield the floor.

Mr. DOLE. Mr. President, I am aware of that, quotation by President Lincoln, and I am aware that 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, a constitutional principle for which he was impeached. I do not believe, however, we must give this President, any President, the right to protect American troops who may remain in South Vietnam.

Therefore, the junior Senator from Idaho, being of the opinion that there is an amendment which has been placed on the Senate and that some substitution language or some provision to the so-called Cooper-Church amendment, it should be made clear that
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, did 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. We have no desire to qualify 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. The object that they want 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 or he authorized him 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 deploring and unjustified of all possible arguments that could be made where the integrity of Congress is concerned.

That is why I say to the Senate— and I have answered his several times over regarding it. I think it is as plain as it can be. We can certainly not hand this over to the President as he is interfered 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 shall 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 ever 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 the President 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 thereafter 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 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, some clarification to the existing 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 is apparent 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 as 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 in this area can be made to redress to some extent the concerns of 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 earlier 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 his May 30, 1970, editorial 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.”

There is a grave fact of life 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 questions involved in the current protests against the war should be lost in the cyclone of threats, anti-Nixonisms and obsessions. Now, however 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 particular, the protesters are the real traditionalists. Madison and Jefferson would have understood the anger on the campuses. They understood the universal mood in Southeast Asia at the dictation of one powerful executive, Madison and his colleagues wrote into the Constitution a check against the concentration of power. Yet it now seems to be accepted as standard American practice.

President Nixon reiterated his claim to the war powers the other night in his news conference in explaining that none of his advisors was responsible for the invasion of Cambodia.

“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 who work or have worked for him,” Mr. Nixon said.

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, the invasion of Cambodia is a violation of our翊onalization. Most of our Presidents would have deemed it imperative to go to Congress for authorization of this step.

Now the administration is resisting the attempt of the Senate Foreign Relations Committee to cut off funds for military operations in Cambodia, even though Cambodia is a country that has received no aid from the United States without some congressional approval. If Congress is not willing or able to devise some means of restraining the war power so that we may have a foreign policy, Congress may have to modify our system of government so that the President would become answerable to Congress. The continuation of the war, in light of our Vietnam experience, 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 an 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 which the Constitution contemplated. It is a matter of time that we get back to it in this country.

AMENDMENT NO. 628

On May 14, 1970, 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 of the PRESIDING OFFICER. The amendment is 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. The President and Congress have the power to raise and support arms, to control reprisals and to declare war, which, of course, includes the power of authorizing a limited war. The President was given authority to repel sudden attacks, but there is nothing in the Constitution which suggests the President is entitled to control 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 sent to war to defend those who have had a hand in its war- making apparatus without some authority voted by Congress. That is a principle worth struggling for. Congress now seems to be groping for the authority of its power and the constitutional tutelage of a free administration, 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 war to 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 war by the back door. But Congress wants the war to come to an end, 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 490,000 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 156,000 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 carry it out.

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 would 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 does not have 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 and measures to protect American interests, personnel or troops. Most of these operations met with the approval of the government whose territory was involved. And further, the vast majority of these operations were limited in nature and
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scope, as is our present involvement in Cambodia.

Our fighting men have moved into for-

eign territory many times. In recent his-
tory President Truman sent U.S. forces

to Korea and we fought there for sev-

eral years without a declaration of war.

President Eisenhower sent American

forces into Lebanon and President John-

son sent them into the Dominican Re-

public and South Vietnam.

Generally accepted rules of interna-
tional law support the President in the

Cambodian operation. As a matter of

international law when a neutral coun-

crty 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 recog-
nized.

The Cambodian operation is a limited

military operation and it has been ex-
tremely successful. Can anyone in this

House deny that this action will, in the

long run, reduce American and al-

ed forces in South Vietnam.

It seems to me the results of the op-
eration to date should apply answer

to the question. As of today the Pentagon

reported the following information:

<table>
<thead>
<tr>
<th>Enemy killed</th>
<th>5,404</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detainees</td>
<td>1,481</td>
</tr>
<tr>
<td>Individual weapons captured</td>
<td>7,540</td>
</tr>
<tr>
<td>Crewed weapons captured</td>
<td>1,071</td>
</tr>
<tr>
<td>Rice (tons)</td>
<td>2499</td>
</tr>
<tr>
<td>Rice (man months)</td>
<td>109,956</td>
</tr>
</tbody>
</table>

“Man months” means the number of

men who could live on that rice for a

month.

Rockets (each) captured | 4,052 |
Mortars (each) captured | 1,384 |
Small arms captured | 8,474,425 |
Land and personnel mines captured | 2,300 |
Hunks destroyed | 3,138 |
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 success-

ful, and will save American lives as well

as Cambodia.

Mr. President, while the general thrust

of this amendment argues for U.S. de-
tachment from Cambodia, its provisions

go much further. A brief examination of

the amendment clearly supports this

fact.

In paragraph 1 the amendment pro-
hibits “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 wise to the tell, the Commanding

in Chief and the military leaders in the

field that the enemy operating from ac-

ross the street can come over and at-

ack you, but you cannot cross the street

to get to them. There is no clear line defin-

ing this border and the present Cambo-
dian Government is op-

posed to the use of their territory by

North Vietnam as a military base to

launch attacks against a friendly neigh-

bor. 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 Cam-

bodia and be trapped and threatened

with a military encirclement. This amend-

ment would tie the hands of the President

and the military leaders in such a situa-

tion 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 unre-

stricted 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.

Further, it is not in the interest of the

United States is prohibited from “pay-

ing compensation or allowances of,
or otherwise supporting, directly or di-

rectly, any person in Cambodia who, first,

furnishes or instructions to Cam-

bodian 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 refers. The purpose of this par-

graph is to prohibit involve-

ment of the United States in support of

the Cambodians through the use of ad-

visers 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 re-

quested such support. Nevertheless, if the

safety of our remaining forces in Viet-

nam would be enhanced by such action

it seems wise 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 mili-

tary instruction in Cambodia, or persons
to engage in any combat activity in sup-

port of Cambodian forces.”

This paragraph could bring into ques-
tion the legality of our support to the

South Vietnamese Government should

they decide their national security would

be strengthened by providing military

instructors 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 Senate 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 the United

States approval, could be brought in to

aid the Cambodian forces.”

Mr. President, I submit we are sup-

porting 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 sanctu-

aries there as is presently being done?

Such an action by the South Vietnamese

would surely aid the Cambodians, and

this would not prevent any forces supported

by the United States from aiding the

Cambodians.

If the South Vietnamese deem it ne-

cessary to their own security to work with

the Cambodian Government, in which

country, 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 amend-

ment, it would prohibit “supporting any

combat activity in the air above Cam-

bodia by U.S. air forces except the inter-

ception of enemy supplies or personnel

using Cambodian territory for attack

against or access into South Vietnam.”

In connection with this paragraph I

raise the nestion, what other countries

where the North Vietnamese weapons of war are
headed for and for what use? Are these

supply movements against the South

Vietnamese or the Cambodians?

Mr. President, if this amendment

will prohibit the President in carry-

ing out his constitutional duty to do

his utmost to provide for the protec-

tion of our fighting men. Its passage

would wreck any chance we might have

left to obtain a real 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

Congress forever in the crucial areas which might not even be visual-

ized 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 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 Con-

gress 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
clear parallel to giving the key to
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

burden on the President at that time.

President Lincoln saw any such parallel in these modern times. The

people of this country elected President Richard Nixon to the

Chamber in 1968. In 1972 they will have an oppor-
tunity to appraise their leader in a

yearly conduct while in office. It would be

nothing less than tragic if the legislative

branch tries to take upon itself the dic-

tating 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 of them have been withdrawn, 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 paralyze him to the point that he has been unable to win on the battlefield. He may be in the United States now but will be on the battlefield soon.

As 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 on May 13, 1970. Without objection, the article was ordered to be printed in the Record as follows:


**PRESIDENT'S WAR POWER THREATENED**

For the first time in American history, the Senate Foreign Relations Committee has ignored not only the joint resolution of the Senate and the House which empowers the President to deploy military forces in Southeast Asia but also the constitutional limitations placed on the President by the Constitution itself. The Senate has been persuaded by the arguments of President Nixon that the President, as commander-in-chief, needs to exercise a free hand in dealing with military contingencies.

The Committee on Appropriations, in its report on the fiscal year 1970, has offered $16 billion for military expenditures, including $15.5 billion for the procurement of military equipment and supplies. The Committee has made a strong case for the necessity of maintaining a military presence in the Far East. The President has been relied upon to use his authority to maintain a military presence in the Far East.

The Committee on Appropriations, in its report on the fiscal year 1970, has offered $16 billion for military expenditures, including $15.5 billion for the procurement of military equipment and supplies. The Committee has made a strong case for the necessity of maintaining a military presence in the Far East. The President has been relied upon to use his authority to maintain a military presence in the Far East.

ORDER FOR TRANSACTIONS OF ROUTINE MORNING BUSINESS TO BE DELAYED AND DESTRUCTION OF SENATOR STENNIS AFTER REMARKS OF SENATOR COOK

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on the floor of the Senate this morning, the Senate Foreign Relations Committee would approve the sale of $4 billion worth of military equipment to the United States and that the Senate Foreign Relations Committee would approve the sale of $4 billion worth of military equipment to the United States.

Mr. President, this resolution is absolutely necessary in order to maintain a military presence in the Far East. The President has been relied upon to use his authority to maintain a military presence in the Far East.

The second supplemental appropriation bill, 1970, passed the House of Representatives on May 7 and was received in the Senate on May 12. The bill, which provided additional budget estimates to the Senate for consideration in connection with this appropriation bill, and these budget estimates were filed at the desk in the Senate on May 12. The President, as commander-in-chief, needs to have the authority to maintain a military presence in the Far East.

**MESSAGE FROM THE HOUSE ENROLLED BILLS SIGNED**

A message from the House of Representatives, by Mr. Harckey, one of its reading clerks, announced that the Speaker, at his direction, signed the following enrolled bills:

S. 86. An act to provide for Federal Government recognition of and participation in the Veterans of Foreign Wars of the United States.

S. 1006. An act to authorize the Board of Public Works 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 the Chair to lay before the Senate the request of the House of Representatives on House Joint Resolution 122. The Chair will then be in order to take up the consideration of the Joint Resolution. The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the Joint Resolution.