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**THE MILITARY SELECTIVE
SERVICE ACT**

The Senate continued with the consideration of the bill (H.R. 6531) to amend the Military Selective Service Act of 1967; to increase military pay; to authorize active duty strengths for fiscal year 1972; and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, I yield 5 minutes to the distinguished majority leader.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, first I wish to correct my own amendment to H.R. 6531 which is at the desk.

On line 6, page 2, after (1) eliminate the words "publicly proclaiming" and substitute "establishing."

The PRESIDING OFFICER. The Senator has the right to so modify his amendment.

Mr. MANSFIELD. Mr. President, I listened with interest to the Senator from South Carolina talking about a blood bath. It just happens that this morning I received the latest figures from the Department of Defense which indicates just how much of a blood bath has occurred as far as this country and its citizens and soldiers are concerned.

As of June 12, 1971, 300,123 Americans have been wounded. As of June 12, 1971, 54,871 Americans are dead. The total casualties up to June 12, 1971, amount to 354,994 Americans.

That, I submit to the Senate, is a blood bath in its own right, and a blood bath which is long overdue for consideration and conclusion.

Mr. President, in a short time, the Senate will be voting on the Cook-Stevens-Hartke-Eagleton amendment. It is my intention to vote for this proposition; and I am delighted to cosponsor the amendment. I do so because the amendment would make clear that the Senate desires an end to the involvement in Vietnam. Moreover, it would underscore the point by providing for a cutoff of funds within 9 months of enactment. As I read it, only a Presidential finding that the North Vietnamese are unwilling to release the U.S. prisoners of war would forestall the fund cutoff. As one Senator, I am ready to join in voting for Cook-Stevens-Hartke-Eagleton.

In the event Cook-Stevens-Hartke-Eagleton is adopted, the Senate would be on record on the question of Vietnamese withdrawal, especially as it relates to the question of the prisoners of war. Insofar as I am concerned, it would then be my intention not—I repeat, not—to call up the amendment which I introduced yesterday and which provides for phased withdrawals of U.S. forces and phased releases of prisoners. Passage of Cook-Stevens-Hartke-Eagleton would have

given voice to the intent of my amendment and, for all practical purposes, superceded it.

However, I think we have to face the fact that a Senate, which has rejected the Hatfield-McGovern amendment, may also find difficulty with the provision for a cutoff of appropriations which is provided in Cook-Stevens-Hartke-Eagleton. In its wisdom, the Senate may also reject Cook-Stevens-Hartke-Eagleton. In that event, the amendment which I offered yesterday may possibly be a closer reflection of the present sentiments of the Senate. The proposed amendment is in the nature of a statement of policy which, if enacted and signed by the President, would set forth a common position for the Government of the United States. The position would include: First, immediate negotiations with North Vietnam for a ceasefire; and, second, negotiation of a withdrawal of U.S. forces from Vietnam in planned stages which would be coincidental with phased releases of prisoners of war, culminating in total withdrawal of forces and total release of prisoners in 9 months. In sum, the two proposals go together.

At times it succeeded. At times it failed. There were the variations that resulted in the Cooper-Church amendment of the summer of 1970; the McGovern-Hatfield proposal of the autumn of 1970; the prohibitions imposed against using funds in Indochina written into the appropriations bill later on in the fall of 1970, and the insistence on that strong language when the final version of the laws came back from conference in the winter of 1970. This spring we were again confronted with the issues. Summer is now here and already the Senate has faced a McGovern-Hatfield proposal, a Chiles proposal, and is about to face a Cook-Eagleton-Stevens-Hartke proposal, with a change sought now by the distinguished manager of the bill, the Senator from Mississippi (Mr. STENNIS).

In my judgment, the Senate has had time to sort out its thoughts; there is no doubt in my mind that the Senate as a whole wishes this Nation to disengage itself from the tragic morass of Southeast Asia. What this war is doing morally and physically to the youth that serve on the battlefields is too well documented. What it is doing to our resources is clear beyond question. And, perhaps most important, what it has done to the moral fiber of our Nation, each one of us senses with ourselves. Each of us, I am sure, has made amply clear our own positions to our constituents back home. But I suggest it is not enough that our positions be made clear to the people. Our constitutional responsibility requires more. Our obligations require that we assume as well the responsibility for helping to determine and even set the policy of this Government on the broad issues of national importance. Ours is a coequal branch and it is patently unfair and unwise that we yield to the President the full obligation to assume the burden of these decisions.

Open contributions by Congress to the Nation's most important decisions can no longer be avoided or neglected. A generation of neglect is enough. The Constitution intended an independent filter by this body in deciding national policy. We are obligated to have a viewpoint. We do have it on this issue. We should insist upon it. We should assert it.

Our failure to do so results at best in the unfortunate—at times, the tragic. The unfolding history of the recent past demonstrates the need for our fuller and more open participation. Too often buck-passing under the "but-the-President-has-all-the-facts" umbrella has been the practice of Congress.

As to the issue before the Senate, I suggest that it is not fair to say: "Let the President work out his own timetable." It is fair neither to him, nor to the people, nor to the Constitution.

In the debate thus far, it has become apparent that the Senate is not yet willing to use the remedy of a precipitous cutoff of funds to end the war. I would hope it could be done so on the basis suggested by the amendment offered by Senators COOK, STEVENS, EAGLETON, and HARTKE. But if the Senate is not ready to use this ultimate remedy in this fashion, then it has a distinct obligation to

set forth a national policy for Indochina. That is precisely what is proposed in the amendment I submitted yesterday afternoon.

Last session the Senate initiated the repeal of the Gulf of Tonkin resolution. That resolution had been cited by the previous administration as the functional equivalent of a congressional declaration of war and a justification and endorsement of a policy of escalation in Vietnam. Many of us were aghast at the broad interpretation put on that resolution. Whatever it was—functional or otherwise—it is gone. It is no longer a justification for anything. But with its demise has gone the only expressed Government policy—openly participated in by the Congress—with respect to U.S. involvement in Indochina. There is no longer an expressed policy with regard to that involvement.

The amendment I propose seeks to fill that void; it declares a national policy for Indochina. It is a policy without a threat but it is nevertheless an affirmative statement of policy that, upon enactment and signature by the President, will be a truly governmentalwide policy for Indochina. It fills the gap between the simple sense of the Senate or sense of Congress resolution which attempts only to state what one branch of the Government merely suggests as a wise policy. It provides instead a framework wherein both branches can work together to set the basic policy of this Government. If this amendment does not state what the proper policy should be for our Government, let it be amended to state what the Senate as a whole considers as its best judgment and wisest course on this issue. The House can do the same. But let us not neglect our responsibilities by doing nothing. Nothing may be the most politically safe thing to do, but our constituents did not send us here to remain, politically safe.

Should the Senate not be given an opportunity to vote on the Cook-Stevens-Eagleton-Hartke proposal—unencumbered by weakening language—then it will be given an opportunity to vote as a substitute for the policy I propose. It provides as a matter of national policy for the termination of all military operations in Indochina at the earliest practicable date; for the withdrawal of all our forces within 9 months from date of enactment provided a release of all prisoners is accomplished within that timeframe and it urges the President to proclaim a date within this timeframe to accomplish those ends. With the public commitment for a date certain, a ceasefire should become a reality.

It is apparent now at least that the United States is committed to a total extrication from the Asian mainland. It is the overwhelming sentiment that the withdrawal shall occur as soon as possible. But in the words of the Senator from Florida (Mr. CHILES):

We play possum with the selection of a date—and the war goes on.

The negotiators in Paris play possum, as well. The selection of a date for our withdrawal, in my judgment, will end the stalemate, will effect the return of our

Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, for more than a year, now, the Senate has endeavored to translate into action its judgment on the war in Southeast Asia.

fighting men, the return of our prisoners, and hopefully will set the stage for the rebuilding process that is needed for the future of American hope and confidence.

It could be the first step in that building process; it is not much to ask. I hope the Senate chooses to take this step. To this end, if the amendment of the Senator from Mississippi (Mr. STENNIS) is agreed to, I shall offer my amendment No. 214 as a substitute for the amendment of the Senator from Kentucky (Mr. COOK), No. 165.

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concurrently with the withdrawal of all remaining military forces of the United States by not later than the date established by the President pursuant to paragraph (1) hereof or by such earlier date as may be agreed upon by the negotiating parties.

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

The yeas and nays were ordered.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Mr. President, is there any time available for debating this amendment?

The PRESIDING OFFICER. There is no time for debate.

Mr. GRIFFIN. Are any amendments to the substitute in order?

The PRESIDING OFFICER. Not to the substitute.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, is it correct that if this substitute, or amendment in the nature of a substitute, is agreed to, the vote will then recur on the Cook-Stevens amendment, as amended?

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. Mr. President, the Chair has stated there is no time for debate. Would I be in order to ask unanimous consent for an extension of time for debate, to be divided?

Mr. EAGLETON. I object.

Mr. MANSFIELD. No. The Chair should rule.

The PRESIDING OFFICER. The Chair will entertain such a unanimous-consent request.

Mr. STENNIS. Mr. President, I ask unanimous consent that on this substitute, not having been debated, an hour for each side be allowed, to be controlled as usual.

Mr. MANSFIELD. Mr. President, I object. The Stennis amendment was not debated, either, and I think all amendments should be treated alike, and I ask for a vote.

Mr. SYMINGTON. Mr. President, a parliamentary inquiry. According to the logic of this amendment, is it in order for me to ask that I be included in the amendment?

The PRESIDING OFFICER. Without objection, the Senator will be included.

Mr. SCOTT. Mr. President, regular order.

Mr. COOPER. Mr. President—

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. COOPER. Mr. President, I ask unanimous consent that 2 minutes be allotted for the purpose of asking a question of the majority leader to interpret one section of his amendment.

Mr. GOLDWATER. Mr. President, I object.

AMENDMENT NO. 214

Mr. MANSFIELD. Mr. President, I send to the desk an amendment in the nature of a substitute on behalf of myself and the distinguished Senator from Pennsylvania (Mr. SCHWEIKER), the distinguished Senator from Rhode Island (Mr. PASTORE), the distinguished Senator from Virginia (Mr. SPONG), the distinguished Senator from West Virginia (Mr. RANDOLPH), the distinguished Senator from New Hampshire (Mr. MCINTYRE), the distinguished Senator from Missouri (Mr. EAGLETON), the distinguished Senator from Indiana (Mr. HARTKE), the distinguished Senator from Minnesota (Mr. HUMPHREY), and others, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

Mr. PASTORE. Mr. President, may we have order in the Senate and will Senators please be seated?

The PRESIDING OFFICER. The Senate will be in order.

The amendment was read, as follows:

TITLE V—TERMINATION OF HOSTILITIES IN INDOCHINA

SEC. 302. It is hereby declared to be the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina, and to provide for the prompt and orderly withdrawal of all United States military forces not later than nine months after the date of enactment of this section subject to the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government. The Congress hereby urges and requests the President to implement the above expressed policy by initiating immediately the following actions:

(1) Establishing a final date for the withdrawal from Indochina of all military forces of the United States contingent upon the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government, such date to be not later than nine months after the date of enactment of this Act.

(2) Negotiate with the Government of North Vietnam for an immediate cease-fire by all parties to the hostilities in Indochina.

(3) Negotiate with the Government of North Vietnam for an agreement which would provide for a series of phased and rapid withdrawals of United States military forces from Indochina in exchange for a corresponding series of phased releases of American prisoners of war, and for the release of any remaining American prisoners of war

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE, Mr. President, a parliamentary inquiry.

Mr. HUMPHREY. Mr. President, regular order.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana. The yeas and nays have been ordered, regular order has been called for, and the clerk will call the roll.

The legislative clerk proceeded to call the roll and Mr. AIKEN voted in the affirmative.

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

The rollcall was resumed.

Mr. BYRD of West Virginia, Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The clerk will suspend until the Senate is in order. Senators will take their seats.

The clerk will call the roll.

The rollcall was resumed.

Mr. BYRD of West Virginia, Mr. President, the Senate is not in order and the galleries are not in order.

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

Mr. MANSFIELD, Mr. President, regular order. I would hope the Chair would observe it.

The PRESIDING OFFICER. The rollcall has been ordered.

Mr. BYRD of West Virginia, Mr. President, the rollcall is in process.

Mr. ALLEN, Mr. President, a rollcall is not in process.

Mr. MANSFIELD, Mr. President, the rollcall is in process. Answers have been made to the rollcall. I ask for the regular order.

The PRESIDING OFFICER. Regular order has been called for. The rollcall is in progress.

The clerk will continue to call the roll.

The rollcall was resumed.

Mr. GRIFFIN, I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness, and, if present and voting, would vote "nay."

Mr. BYRD of West Virginia, Mr. President, will the Chair be sure to maintain order in the Chamber and in the galleries when the vote is announced?

The PRESIDING OFFICER. Before announcing the vote, the Chair reminds persons in the galleries to maintain order. Demonstrations or indications of approval or disapproval will not be permitted.

The result was announced—yeas 57, nays 42, as follows:

[No. 114 Leg.]

YEAS—57

| | | |
|--------------|---------------|-----------|
| Aiken | Hartke | Moss |
| Anderson | Hatfield | Muskie |
| Bayh | Hollings | Nelson |
| Bentsen | Hughes | Pastore |
| Bible | Humphrey | Pearson |
| Brooke | Inouye | Pell |
| Burdick | Javits | Percy |
| Byrd, W. Va. | Jordan, N.C. | Proxmire |
| Cannon | Jordan, Idaho | Randolph |
| Case | Kennedy | Ribicoff |
| Chiles | Magnuson | Schweiker |
| Church | Mansfield | Spong |
| Cranston | Mathias | Stevens |
| Eagleton | McClellan | Stevenson |
| Fulbright | McGovern | Symington |
| Gambrell | McIntyre | Talmadge |
| Gravel | Metcalf | Tunney |
| Harris | Mondale | Williams |
| Hart | Montoya | Young |

NAYS—42

| | | |
|-----------|-----------|----------|
| Allen | Dole | McGee |
| Allott | Dominick | Miller |
| Baker | Eastland | Packwood |
| Beall | Ellender | Proby |
| Bellmon | Ervin | Roth |
| Bennett | Fannin | Saxbe |
| Boggs | Fong | Scott |
| Brock | Goldwater | Smith |
| Buckley | Griffin | Sparkman |
| Byrd, Va. | Gurney | Stennis |
| Cook | Hansen | Taft |
| Cooper | Hruska | Thurmond |
| Cotton | Jackson | Tower |
| Curtis | Long | Weticker |

NOT VOTING—1

Mundt

So Mr. MANSFIELD's amendment was agreed to.

Mr. MANSFIELD, Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE, I move to lay that motion on the table.

The motion to lay on the table was agreed to.