

might be a little more discreet for a President who came to that office in the manner that he did to be a little more considerate about our constitutional process.

What I suggested, if the Senator will recall, is that we are moving into a situation where we now have had almost 50 vetoes in the short time President Ford has been in office.

Obviously, he is acting under the Constitution. I am not saying he is not acting under the Constitution. I am saying he has almost paralyzed our legislative process by using the veto as exorbitantly as he has.

That was not intended as a dishonor on him, but simply to recognize that we have a very difficult situation here. There is nothing unconstitutional about what I am proposing to the Senate, that we pass a concurrent resolution. I am not trying to dishonor anything but simply to say something in reality.

Mr. WILLIAM L. SCOTT. In other words, the distinguished Senator would say the same thing if we had an occupant of the White House who was elected by all of the people of the country.

Mr. McGOVERN. Absolutely.

Mr. WILLIAM L. SCOTT. The Senator is not suggesting less.

Mr. McGOVERN. I might say the same thing even if he were a Democrat.

Mr. ABOUREZK. Will the Senator from Virginia yield for a moment?

Mr. WILLIAM L. SCOTT. I do not have the floor.

Mr. ABOUREZK. I think he made an excellent point.

Mr. HUMPHREY. Let us get on with the debate.

Mr. ABOUREZK. I think the Senator from Virginia made an excellent point. Both my colleague and I have talked about the respect we have for the office of the presidency. The only problem is we have been subjected to the Ronald Reagan commercials in South Dakota during the primary, and we were somewhat overwhelmed.

Mr. CRANSTON. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. CRANSTON. I would like to say that I take in good faith the strong pledge of the Senator from Minnesota that he will do everything he can before the conference in dealing with the administration, and at the conference, to achieve the concurrent resolution—which gives us the authority to deal, as Members of this independent branch of the Government, with the executive branch, in a greater stance of power, for what we believe.

Mr. HUMPHREY. I assure the Senator we will do our level best.

I have said that and I think the legislative history makes it very clear.

Mr. CRANSTON. I think there is one new aspect of the situation to take into account in the negotiations that the Senator will undertake. That is what Secretary Kissinger did in Chile.

The New York Times notes this morning that he stated while there that human rights violations had raised obstacles to United States-Chilean rela-

tions. He asked for more funds and a stronger mandate for the OAS Human Rights Commission which has condemned "arbitrary arrest and prosecutions" by the Chilean Government.

Of course, we are interested in violations in Chile, but we are also interested in human rights in other parts of the world.

If Secretary Kissinger meant what he said, and I presume he did, then it seems to me that he should agree with our position, if he wants the strongest possible approach to human rights—as taken in our legislation.

Mr. HUMPHREY. Which has been the position of the Senate by overwhelming majority vote, and it has been my position. The Senator is correct.

Mr. CRANSTON. I shall discuss one other point with the Senator from Minnesota.

Whatever the outcome of that conference, if he fails in his effort as to our purposes and we do not at the present time achieve a concurrent resolution approach, I urge the Senator to maintain the Senate language on expediting procedures.

Mr. HUMPHREY. Yes.

Mr. CRANSTON. So if we falter on the other approach we at least would be able to come to grips with the issues on which we wish to act.

Mr. HUMPHREY. The Senator should have no doubt about that.

Mr. CRANSTON. I thank the Senator.

Mr. HUMPHREY. I assure the Senator.

Mr. ABOUREZK. Mr. President, as manager of the bill, the Senator from Minnesota ought to make the strongest kind of statement to the White House when he discusses this legislation.

Mr. HUMPHREY. The Senator need not have any worry about that.

Mr. ABOUREZK. I can assure the manager of this bill that we are going to continue to press the case for human rights and I think the sympathy is growing in the Senate for that.

On the basis of the assurances that the Senator has given, I will withdraw my amendment.

Mr. HUMPHREY. The Senator does not need a unanimous consent request.

Mr. ABOUREZK. All right.

Mr. President, I withdraw the amendment I have offered.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HUMPHREY. I thank the Senator very much.

Mr. GRIFFIN. Mr. President, for both constitutional and pragmatic reasons, I rise in strong opposition to this amendment.

The legislation now before us has already traveled a rough and winding road; and given the differences which exist between this and the House-passed version, the difficulties are not all behind us.

Timely legislation in this area is vital. This bill includes authorizations for fiscal year 1976, which is already into its 11th month. It would be a tragedy if acceptance of this amendment led to a second presidential veto, and yet such a possibility is not unlikely. I would remind my colleagues that the President's first

objection to S. 2662—the vetoed predecessor to the bill now before us—was that its misuse of the concurrent resolution mechanism was inconsistent with the Constitution.

#### FUNDAMENTAL CONSTITUTIONAL ISSUES

There are fundamental constitutional issues raised by the pending amendment, which would empower the Congress to terminate lawfully executed international agreements by concurrent resolution—instead of by joint resolution, as the bill now provides.

Article I, section 7, clause 3 of the U.S. Constitution provides:

*Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill. (Emphasis added.)*

This is explicit language, and the records of the Constitutional Convention establish why it was inserted. Originally the Committee of Detail had recommended that all "bills" must be sent to the President for approval, but James Madison expressed concern that this provision could be evaded by calling an act a "resolution" or "vote" rather than a "bill."<sup>1</sup>

The language which now constitutes article I, section 7, clause 3 of the Constitution was subsequently proposed by Edmund Randolph, and was accepted by a vote of 9 to 1, with 1 absentee.<sup>2</sup>

It is equally clear that the Founding Fathers intended this mechanism to apply to repealing a law as well as to enacting it. North Carolina delegate Hugh Williamson proposed that the Presidential veto not be permitted to stop the repeal of a statute, and his suggestion was rejected.<sup>3</sup>

Writing on this issue in a recent issue of the California Law Review, H. Lee Watson summarized:

From this history it may be concluded that the primary objective of the veto power is to curb legislative authority by shielding the Executive from encroachment by the legislature.<sup>4</sup>

For the first 100 years of our Constitution, there was agreement on the meaning of the "presentation" clause of article I, section 7. Then, in 1896, a question was raised in the Senate over whether a joint or concurrent resolution was necessary to require certain reports from the Secretary of War under the 1892 Rivers and Harbors Appropriations Act. The Senate Judiciary Committee was asked to make a study of the proper uses of concurrent and joint resolutions.

After considering the matter for nearly a year, the Senate Judiciary Committee issued a lengthy report in 1897, which said in part:

[I]t has been the uniform practice of Congress, since the organization of the Government, not to present concurrent resolutions to the President for his approval, and to avoid incorporating in such resolutions

Footnotes at end of statement.

any matter of strict legislation requiring such presentation. As a matter of propriety and expediency it is believed to be wise to continue that course in the future.

We conclude this branch of the study by deciding the general question submitted to us, to wit, "whether concurrent resolutions are required to be submitted to the President of the United States," must depend, not upon their mere form, but upon the fact whether they contain matter which is properly to be regarded as legislative in its character and effect. If they do, they must be presented for this approval; otherwise, they need not be.<sup>5</sup>

A more recent interpretation of the "presentation" clause is provided by the Congressional Research Service of the Library of Congress, which—relying in part on the 1897 Judiciary Committee report—concluded:

"[N]ecessary here means necessary if an order, resolution, or vote" is to have the force of law. Such resolutions have come to be termed "joint resolutions" and stand on a level with "bills," which if "enacted" become statutes. But "votes" taken in either House preliminary to the final passage of legislation need not be submitted to the President, not resolutions passed by the Houses concurrently with a view to expressing an opinion or to devising a common program of action . . . or to directing the expenditure of money appropriated to the use of the two Houses.<sup>6</sup>

It has only been within our lifetime that the concurrent resolution has been used as a means of limiting Presidential authority. The practice first became popular during the administration of President Franklin Roosevelt, and at the time appeared to meet with little administration opposition. Subsequent events have established that this was not because the President believed the mechanism was constitutionally sound, however, but because he found silence under the circumstances to be politically expedient.

Writing in a 1953 edition of the Harvard Law Review, Supreme Court Justice Robert Jackson—who earlier had been Roosevelt's Attorney General—published for the first time a memorandum on the constitutionality of the concurrent resolution veto which President Roosevelt had signed and deposited with the Attorney General following the enactment of the 1941 Lend-Lease Act. The extraordinary memorandum read in part:

On March 11, 1941, I attached my approval to the bill (H.R. 1776) entitled "An Act to Promote the Defense of the United States." The bill was an outstanding measure which sought to meet a momentous emergency of great magnitude in world affairs. In view of this impelling consideration, I felt constrained to sign the measure, in spite of the fact that it contained a provision which, in my opinion, is clearly unconstitutional. I have reference to the clause . . . providing that after the passage of a concurrent resolution by the two Houses . . . neither the President nor the head of any Department or agency shall exercise any of the powers conferred by or pursuant to subsection (a), with certain exceptions. In effect, this provision is an attempt by Congress to authorize a repeal by means of a concurrent resolution of the two Houses, of certain provisions of an Act of Congress. . . . The Constitution contains no provision whereby the Congress may legislate by concurrent resolution with-

out the approval of the President. . . . In order that I may be on record as indicating my opinion that the foregoing provision of the so-called Lend-Lease Act is unconstitutional, and in order that my approval of the bill . . . may not be construed as a tacit acquiescence in any contrary view, I am requesting you to place this memorandum in the official files of the Department of Justice. I am desirous of having this done for the further reason that I should not wish my action in approving the bill which includes this invalid clause, to be used as a precedent for any future legislation comprising provisions of a similar nature. [Emphasis added.]<sup>7</sup>

Why did Roosevelt not make his views known publicly at the time? Justice Jackson provides the answer:

The reason was political. His views, strangely enough, were those used by the opponents of the Lend-Lease Bill, some of whom were his consistent political enemies, to justify their opposition to the Bill. They argued that the device for recalling their grant of power was unconstitutional and therefore illusory. His loyal supporters, on the other hand, had argued that the provision was valid and therefore effective as a check on any runaway executive action. For the President to make public his views at that time would confirm and delight his opposition and let down his friends. It might seriously alienate some of his congressional support at a time when he would need to call on it frequently. It would also strengthen fear in the country that he was seeking to increase his personal power.<sup>8</sup>

Unfortunately, the President's failure to make public his constitutional objections to the concurrent resolution veto mechanism contributed to its increased use during his administration. Its use decreased greatly during the 1950's and 1960's, but has undergone a significant revival within the last 3 years.

As has been demonstrated, the use of a concurrent resolution to repeal or modify an existing law is contrary to the very explicit language of the Constitution and the established intent of the Founding Fathers.

There is another distinct constitutional issue involved in the mechanism proposed by the pending amendment—the doctrine of separation of powers.

When he returned S. 2662 to the Congress without his approval, President Ford expressed his opposition to these concurrent resolution "veto" provisions, noting:

[T]hey would involve the Congress directly in the performance of Executive functions in disregard of the fundamental principle of separation of powers. Congress can, by duly adopted legislation, authorize or prohibit such actions as the execution of contracts or the issuance of export licenses, but Congress cannot itself participate in the Executive functions of deciding whether to enter into a lawful contract or issue a lawful license, either directly or through the disapproval procedures contemplated in this bill.

Testifying before the Subcommittee on Separation of Powers of the Senate Judiciary Committee in 1967, Yale Law School Professor Alexander M. Bickel concluded:

Congress has no power under the Constitution to repeal a statute free of the President's veto any more than it has power to pass it free of the President's veto. On analysis that is very simply what it always comes

to. Another way to put it . . . is that Congress is attempting to share executive power. That is, it is attempting not just to lay down the prospective broad policy but to share in the administration, and that can also be said to violate the Constitution, because the Constitution distinguishes between legislative power and executive power. And while there may be shadow areas in between, I do not think we are in one here. It is fairly clear what is legislative and what is executive once you have had a statute passed which authorizes certain actions to be taken by the executive and you try to participate in taking those actions.<sup>9</sup>

While the U.S. Supreme Court has never issued an opinion on the concurrent resolution veto mechanism per se, there are a number of judicial decisions of relevance.

In Springer against the Philippine Islands, the Supreme Court in 1928 declared invalid certain acts of the Philippine Legislature deemed of an executive character. Although the case was determined on the basis of the Philippine Organic Act of 1916, the Court established that its decision applied equally to the federal constitution:

[T]he Organic Act, following the rule established by the American constitutions, both state and federal, divides the government into three separate departments—the legislative, executive and judicial. Some of our state constitutions expressly provide in one form or another that the legislative, executive and judicial powers of government shall be forever separate and distinct from each other. Other constitutions, including that of the United States, do not contain such an express provision. But it is implicit in all, as a conclusion logically following from the separation of the several departments. . . .

It may be stated then, as a general rule inherent in the American constitutional system, that, unless otherwise expressly provided or incidental to the powers conferred, the legislature cannot exercise either executive or judicial power; the executive cannot exercise legislative or judicial power; the judiciary cannot exercise either executive or legislative power. . . . Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. The latter are executive functions. . . . [T]he legislature cannot engraft executive duties upon a legislative office. . . . [Emphasis added.]<sup>10</sup>

This is virtually the only Federal judicial statement on the limits to the governmental powers of legislators.<sup>11</sup>

A recent discussion of Springer against Philippine Islands in the California Law Review concluded:

Read narrowly, the case holds that the legislature cannot place legislators, by appointment or otherwise, in positions where they would wield executive power. A broader message is also clear: the legislature is limited to lawmaking; it cannot enforce or execute the laws.<sup>12</sup>

The following year, using Springer as precedent, the New York Court of Appeals held in People against Tremaine that drawing up a schedule of positions and salaries to be paid out of a lump sum appropriation was an executive function:

This is a clear and conspicuous instance of an attempt by the Legislature to confer administrative power upon two of its own members. It may not engraft executive duties upon a legislative office and thus usurp the executive power by indirection. . . . The

Footnotes at end of statement.

legislation is complete when the appropriation is made. [Emphasis added.]<sup>13</sup>

In 1936 the New York Court of Appeals provided another key precedent, in *Matter of Moran against La Guardia*. A State statute had authorized the lowering of certain civil service salaries during a period of emergency, stating that the provisions should apply "until the legislature shall find their further operation unnecessary." When the legislature attempted to terminate the provisions of the statute by concurrent resolution, the court ruled:

The sole question . . . presented by this proceeding is whether the Legislature can terminate this economy legislation by concurrent resolution or whether for such termination there is required a legislative enactment. . . .

*A concurrent resolution of the Legislature is not effective to modify or repeal a statutory enactment. . . . To repeal or modify a statute requires a legislative act of equal dignity and import. Nothing less than another statute will suffice.* A concurrent resolution of the two houses is not a statute. . . . A concurrent resolution, unlike a statute, is binding only on the members and officers of the legislative body. It resembles a statute neither in its mode of passage nor in its consequence. . . . [I]ts adoption is complete without the concurrent action of the Governor, or lacking this, passage by a two-thirds vote of each house of the legislature over his veto. [Emphasis added.]<sup>14</sup>

To my knowledge, this decision is the only judicial consideration of provisions for the termination of a statute by concurrent resolution.<sup>15</sup>

Watson, in his previously cited California Law Review article, notes the paucity of judicial authority in this area and suggests that "the political question doctrine may prompt the judiciary to shy away from these questions."<sup>16</sup> Continuing, however, he notes:

That the question of the validity of extra-legislative control may be left to Congress does not automatically validate these measures. On the contrary, it places a heavy burden of responsibility on that body to consider the constitutional implications of using them.<sup>17</sup>

#### FOREIGN POLICY AND PRESIDENTIAL FLEXIBILITY

In addition to these very strong constitutional infirmities, this amendment also falls short on practical grounds.

There is a substantial tradition in American politics that, in the field of foreign relations, the President must have even greater flexibility from excessive legislative restrictions than in domestic areas. This has even been recognized by the Supreme Court, which observed in *U.S. v. Curtiss-Wright Export Corp.* (299 U.S. 304 [1936]):

It is quite apparent that . . . congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved. . . . Practically every volume of the United States Statutes contains one or more acts or joint resolutions of Congress authorizing action by the President in respect of subjects affecting foreign relations, which either leave the exercise of the power to his unrestricted judgment, or provide a standard far more general than that which

has always been considered requisite with regard to domestic affairs.

The wisdom of allowing considerable Presidential flexibility in the conduct of foreign relations has been demonstrated time and again.

This is not the first time that Congress has tried to influence the day-to-day decisionmaking process with regard to foreign military sales. Two recent examples which come readily to mind are the sale of military equipment to Turkey, and the proposed sale of Hawk missiles to Jordan. In both instances, it seems to me, congressional intervention was counterproductive to its own objectives—restoring peace on Cyprus, and preserving Israel's security—and in the process both actions seriously damaged our own national security interests.

Two newspaper articles—both of which appeared during the last week of May of this year—make this point very well.

On May 27, Steve V. Roberts reported in the New York Times from Istanbul:

While the foreign ministers of 42 Islamic countries were meeting here in early May, and hailing "Moslem solidarity," a Turkish journalist looked up from her notes and snapped, "It is the American Congress that has brought us to this point." The meeting symbolized an important change in Turkish foreign policy. After many years of unswerving identification with the West, Ankara is actively seeking broader ties with its Moslem neighbors to the south and east. It is also expanding relations with its Communist neighbors to the north and west, and in a few weeks the leaders of Yugoslavia, Bulgaria and Rumania are expected here for state visits. This policy shift was attributed mainly to the Cyprus situation and the arms embargo Congress imposed on Turkey last year.

I recall that Secretary Kissinger warned Congress that such an arms embargo would not soften the Turkish position on Cyprus, but that in the process it could seriously damage U.S. relations with Ankara. Events have unfortunately proven that he was right. Cyprus remains a tragic problem, the southern flank of NATO has been weakened, the United States has lost access to extremely important intelligence bases—which once contributed to our verification of arms agreements with the Soviet Union—and, finally, a very strategic country vis-a-vis the Middle East has been driven closer to the Arab States and to the Soviet Union.

The next congressional initiative in the arms sale field was an effort to halt, or to significantly limit, the sale of Hawk anti-aircraft missiles to Jordan. Once again, administration spokesmen warned that congressional intervention might prove counterproductive—forcing Jordan, which has traditionally been one of the most moderate and pro-United States countries of the Arab world, to turn to the Soviet Union for its air defense needs. But Congress was not to be deterred. After several weeks of strong criticism of the sale, a concurrent resolution to block it was withdrawn in return for restrictions on the proposed sale.

On May 31, 1976, Rowland Evans and Robert Novak provided an update on the situation in the Washington Post:

The tragic turn toward Moscow by Jordan's King Hussein, one of this country's staunchest friends in the Mideast until his humiliation by the U.S. Congress over the Hawk missile deal, threatens to harden still further Israel's refusal to give up the West Bank of the Jordan River.

If Hussein decides to buy Soviet anti-aircraft missiles during his June visit to Moscow (his first in almost 10 years), the Israeli reaction will be both predictable and hard to refute: The insinuation of Soviet power on the East Bank of the Jordan makes continued Israeli occupation of the Arab West Bank imperative. The West Bank could then become a counterpart of the Israeli-occupied Golan Heights of Syria: Arab territory Israel says will never be returned. That would destroy the key element of every U.S. peace plan devised to settle the bloody Arab-Israeli struggle: the return of the West Bank to Jordan—or to the Palestinians—under some form of international guarantee. Even worse, King Hussein may feel compelled to turn to radical, oil-rich Libya for help in financing the purchase of anti-aircraft missiles from Moscow.

By its untimely intervention in a delicate diplomatic situation, the Congress has jeopardized the admirable efforts President Ford and Secretary Kissinger have made to assist the nations of the Middle East in reaching a peaceful and equitable solution to their differences. One of our closest friends in the Arab world has been publicly humiliated and forced to go to Moscow to obtain air defense equipment he wanted to purchase from us. As a consequence, Soviet—and perhaps Libyan—influence in this volatile region of the world will be increased. Finally, Israel—our closest ally in the Middle East—will be in even greater danger.

#### CONCLUSION

It seems to me that President Ford is exactly right when he asserts that this "concurrent resolution veto" provision is inconsistent with two fundamental constitutional principles: the "submission" clause of article I, section 7; and the principle of separation of powers.

Even were there no such constitutional problems, however, the pragmatic considerations alone would be persuasive. The record of congressional interference in the sale of arms to Turkey and Jordan hardly argues for greater legislative participation in this area. On the contrary, the wisdom of the Constitution is once again borne out by experience. Congress has no business becoming involved in the day to day process of executing foreign policy.

I strongly urge my colleagues to reject the amendment now before us.

#### FOOTNOTES

<sup>1</sup> H. Lee Watson, "Congress Steps Out: A Look at Congressional Control of the Executive," 63 *California Law Review* 983 at 1046-7 (1975); Robert W. Ginnane, "The Control of Federal Administration by Congressional Resolutions and Committees," 66 *Harvard Law Review* 569 at 572-3 (1953).

<sup>2</sup> Watson, *op. cit.* p. 1047; Ginnane, *op. cit.*, p. 573.

<sup>3</sup> Ginnane, *op. cit.* p. 1047; Ginnane, *op.*

<sup>4</sup> Watson, *op. cit.* p. 1048; See also Hamilton's explanation of the veto power, in *The Federalist*, No. 73: "The propensity of the legislative department to intrude upon the rights, and to absorb the powers, of the other departments, has been already sug-

gested and repeated; the insufficiency of a mere parchment delineation of the boundaries of each, has also been remarked upon; and the necessity of furnishing each with constitutional arms for its own defence, has been inferred and proved. From these clear and indubitable principles results the propriety of a negative [i.e., a veto] . . . in the Executive, upon the acts of the legislative branches. . . . The primary inducement to conferring the power in question upon the Executive is, to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design."

<sup>5</sup> *Senate Report No. 1335*, 54th Congress, 2d Session, quoted in John T. Melsheimer, "Discussion of the Constitutionality of the Congressional Veto Provisions Contained in S. 2662 (94th Congress) Entitled The International Security Assistance and Arms Export Control Act of 1975," (Washington D.C.: Library of Congress, Congressional Research Service, 1976) p. 11, n. 5.

<sup>6</sup> Library of Congress, Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation* (Washington, D.C.: U.S. Government Printing Office, 1973), pp. 127-128.

<sup>7</sup> Robert H. Jackson, "A Presidential Legal Opinion," 66 *Harvard Law Review* 1353, at 1357.

<sup>8</sup> *Ibid.*, p. 1356.

<sup>9</sup> U.S. Senate, "Separation of Powers," *Hearings before Subcommittee on Separation of Powers of the Committee on the Judiciary*, 90th Congress, 1st Session, (1967), Part I, p. 253.

<sup>10</sup> 277 U.S. at 189, at 201, 201.

<sup>11</sup> Watson, *op. cit.* p. 1011.

<sup>12</sup> *Ibid.*, p. 1012.

<sup>13</sup> 252 N.Y. 27, at 44, 168 N.E. 817 at 822 (1929).

<sup>14</sup> 270 N.Y. 450, at 452, 1 N.E. 2d 961 at 963 (1936); Under the Michigan Constitution (both 1908 and 1963 versions), by a two-thirds vote the legislature can provide that a new law take effect immediately after signing by the governor, rather than 90 days after final adjournment of the legislature, which is the normal practice. In 1941, rather than adjourning in late Spring as was the custom, the legislature took a recess until October. Upon reconvening, both houses adopted concurrent resolutions by two-thirds votes to give immediate effect to several of the acts which had been passed and signed by the Governor in the Spring. This use of concurrent resolutions was found unconstitutional by the Michigan Supreme Court, which concluded: "By virtue of his veto power, the governor is part of the law-making power . . . hence it is his legislative duty, as well as that of both houses of the legislature, to consider whether a measure falls within the categories to which the privilege of immediate effect may be given. The procedure adopted in the instant case deprived him of the opportunity of exercising such legislative function. For that reason it is unconstitutional." (*United Ins. Co. v. Attorney General* (300 Mich. 200, 1 N.W. 2d 510 [1942])). In *State v. Pulliam* (168 Okl. 632, 37 P. 417, 96 A.L.R. 1294), it was held that after a municipal ordinance had been duly passed by the common council, approved by the mayor and filed by the city clerk, it had passed beyond the control of the council. That body did not have the power to reconsider and amend it without re-enacting it, as amended, as a new ordinance.

<sup>15</sup> Ginnane, *op. cit.* p. 598; Watson, *op. cit.* p. 989.

<sup>16</sup> Watson, *op. cit.* p. 989.

<sup>17</sup> *Ibid.* p. 990.

Mr. PELL. Mr. President, there is no one more aware of the excellent job that

the Senator from Minnesota has done in putting this bill together and of all the hours of hard work that he has put into it and the way he has given of his ability, diplomacy, and skill, in developing a bill with many new and good innovative concepts. I am very mindful of his words of assurance in the Chamber today, and I recognize in this regard that the House of Representatives not only has the concurrent resolution provision covering human rights, but it also has a concurrent resolution already written to cover the question of ineligibility for military assistance.

So my hope is that if both parts of my amendment are withdrawn and not included in the Senate bill, it should be a matter of record that the Senator from Minnesota would press in this direction as hard as he can and give real thought to the receding to the House position.

Mr. HUMPHREY. The Senator has my assurance of that.

Mr. PELL. I thank the Senator.

Mr. HUMPHREY. I think I speak for the distinguished Senator from New Jersey who is the ranking member.

Mr. CASE. That is right. This is predicated upon our judgment of what is possible to enact into law.

Mr. PELL. I recognize that. I know that the Senator from New Jersey has likewise shown an interest in the same problems long before I was a Member of this body.

Mr. CASE. I thank the Senator.

Mr. PELL. Mr. President, I also thank the Senator from Alabama for his willingness to support this amendment, which would show the breadth of viewpoint that is commanded by what we are saying here. I am very grateful to him for his expression of support.

But in light of the assurances of the Senators from Minnesota and New Jersey, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CRANSTON addressed the Chair.

Mr. CASE. Mr. President, I think I have the floor, and I am happy to yield, if I may briefly, to the Senator from California.

Mr. CRANSTON. Mr. President, I wish to have the floor briefly, first, for a unanimous-consent request and, second, to speak for about 2 minutes on an amendment that I will not call up.

Mr. CASE. On the understanding that I do not lose my right to the floor, I am happy to yield.

Mr. CRANSTON. I thank the Senator very much.

First, I ask unanimous consent on behalf of Senator CLARK that Bruce van Voorst of his staff be accorded privileges of the floor during consideration of this measure, and also from my staff, Bill Jackson and Chris Cohagen be accorded privileges of the floor throughout consideration of all phases of this bill.

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

Mr. CRANSTON. Mr. President, briefly let me say that I considered introducing and calling up an amendment on a related matter to the one we have just been discussing.

My concern is related to human rights

and the violation of human rights in South Korea.

It is very disturbing to read once again in this morning's New York Times a story under the heading "United States To Make Few Gains in Seoul in Effort To Ease Repressive Policies."

Mr. President, I ask unanimous consent that that story be printed in the RECORD.

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

UNITED STATES SAID TO MAKE FEW GAINS IN SEOUL IN EFFORTS TO EASE REPRESSIVE POLICIES

By Andrew H. Malcolm

SEOUL, SOUTH KOREA—Quiet efforts by the United States to ease the authoritarian human and civil rights policies of the South Korea Government of President Park Chung Hee show no signs of having any effect, according to interviews with diplomats, South Koreans and other observers here.

In public statements and testimony before Congress in recent months, Washington officials, including Secretary of State Henry A. Kissinger, have said they were working behind the scenes to persuade President Park to loosen the repressive policies that have drawn international criticism and threats of reduced American aid.

But such efforts, including regular expressions of "concern" by resident and visiting American officials here, have produced no visible results, according to informed sources.

"I wouldn't say our efforts are just a ritual," one American admitted. "Let's just say we don't have very high expectations of results."

#### PARK'S GROWING INDEPENDENCE

This lack of civil rights impact is viewed by many here as part of a larger decline in American influence in general in the Republic of Korea as the 58-year-old President Park steadily gains greater military, economic, political and diplomatic independence.

"The days of table-pounding and telling them what's going to happen are over," said one diplomat. "The Koreans are more independent every day."

President Park and his spokesmen regularly ask their visitors to understand the special problems of South Korea, how it is threatened militarily by North Korea and how signs of dissidence or internal political opposition could be misconstrued by the Communists as weakness.

Just last month Mr. Park patiently explained to Elliot Richardson, the visiting Secretary of Commerce, how certain political ideals suitable for one country do not fit the circumstances of another.

It is prohibited here, for example, to criticize the Government, the Constitution or the president. Last year, eight men were hanged on charges of belonging to an outlawed political party.

Kim Dae Jung, the defeated 1971 presidential candidate, was kidnapped in Japan and returned here for several trials. Arrests in the night and jailings are common. So, too, are charges of torture, including denial of sleep during questioning that lasts several days. Bail is nonexistent.

Professors and other potential political opponents discover their employment terminated for unexplained or suspicious reasons. There have been deaths under questionable circumstances, with one dissident victim "falling" from a bathroom window after interrogation.

Local news media are controlled by the authorities. Magazines and newspapers from abroad arrive with censored articles clipped from their pages. Mail is opened, telephones are tapped, many citizens are followed.