

we can do now is to fix the CPI. As I say, groups are working to do at the present time. Others have lately joined in these suggestions.

So I do hope my colleagues will read that article and recall that everything and all things we are doing right now on this budget is, or should be, for the benefit of future generations. I tell people at my town meetings; they do not hear it always. I tell it wherever I am. Nobody over 60 is going to get dinged at all in this process unless they are loaded. And if they are loaded, they might get stuck 20 to 40 bucks more a month. If they are not loaded, they will not get hit at all. People cannot even hear that. We cannot go on to ignore this ghastly problem in Social Security and yet ever be able to continue to claim that we have done right by them.

Finally, Mr. President, I wish to call the attention of my colleagues to a recent article in the Washington Post regarding the recommendations forthcoming from the Social Security Advisory Council. This is very important. People are ignoring these things because you are not supposed to mention these two detonating words—Social Security.

But that council was unable to agree upon a prescribed solution to the impending Social Security solvency crisis, and that is a similar experience with which I am very familiar. I served on the President's Bipartisan Commission on Entitlement and Tax Reform. We have no difficulty defining the problem, and by a vote of 30 to 1 we agreed that it certainly existed. I have just shared with you moments ago what it is. But when it came time to solve it, only a hardy few were willing to give answers—Senator Bob KERREY, Senator Jack Danforth, Congressman Alex McMillan, Congressman PORTER GOSS, PETE PETERSON, and myself, to name a few of them—out of a 32-Member commission. So I do know what it is like to struggle for a year to get colleagues to confront a most serious problem, only to be overcome and overwhelmed by the ponderous difficulty of getting a majority to face before us political perils inherent in the solution.

Although the advisory council was unable to develop a consensus solution, there is much that is worth noting in the work that they have done. My colleagues would do well to study it. I myself again plan to have serious hearings on this subject this year in my Finance Committee's capacity as the chairman of the Subcommittee on Social Security and Family Policy.

Three plans were voted on by the council. One is called the privatization plan, which would take roughly half of the existing contributions to Social Security and refund them to taxpayers to be invested in IRA's or 401(k)-type accounts which would earn retirement income for them while their previous Social Security benefits would be cut accordingly.

A few years ago, you could not even pose a discussion about such a plan

without someone charging that you were out to destroy Social Security. Yet, this plan received five votes from these advisory council members. I think that shows a deep recognition of the need for fundamental reform of the system.

Another plan was backed by former Social Security Commissioner Robert Ball. He would stick very close to some of the more traditional solutions, as Mr. Ball has always done in the past. It would turn to increased taxation: imposing existing payroll taxes on State and local employees; imposing higher taxes on Social Security benefits, and, of course, raising the payroll tax rate. We have heard so much of that before.

But I draw my colleagues' attention to some of their other proposals. One is to reform the Consumer Price Index. Bear in mind that this is from the old guard, the most traditional defenders of the existing Social Security system, the people on this committee, this advisory committee, saying now that the CPI needs to be reformed for the sake of Social Security solvency. We need to hear that. If we cannot get that done at all in our current budget process, we are truly "missing the boat."

Here is something else they suggest. Having the Government invest the Social Security trust funds in stock market index funds as opposed to simply buying Government bonds. That is something which Senator KERREY and I have also proposed here in the Senate. That would have been absolute heresy a short time ago. These members of the advisory council will not go so far as to set up individual accounts; they would retain the pooled nature of the program. But, still, this would represent a most significant shift from current practice.

So I review all of that for my able colleagues so that they will see that the entire spectrum and scholars and "experts" on this issue tell us that fundamental reform is absolutely necessary in order for Social Security to survive. At the very least we must reform the CPI and get these retirement funds somewhere else other than where they are currently are, either into stock funds, or into private retirement accounts, if we are ever to generate the return that will be critically necessary to fund future benefits.

I would also note that a third option was described in this article as a "halfway house" measure. This plan would provide for two percentage points of the payroll tax to go into a 401(k) or an IRA-style plan. And the chairman of the council voted for that one. That intrigued me greatly because I had also joined Senator KERREY in offering a plan which had exactly this option as one of its components. Here they have described it as a "halfway house" measure.

So I, Mr. President—and you have known me a lifetime—have become, I whimsically conjecture, a "moderate" now when it comes to Social Security reform, which is touching. It is a

touching thing. My colleague might surely be most intrigued to know that. But this Kerrey-Simpson-style proposal is now viewed by the advisory council itself as a compromise between differing approaches to reform of the system. Who would believe it?

So I trust that my colleagues will give their earnest attention to the deliberations of the Social Security Advisory Council, and note that all those who study this issue have concluded that fundamental reforms need to be made, starting at the very least with reforming the Consumer Price Index.

I look forward to working with my colleagues in the year to come with regard to those issues that will come before the subcommittee which I chair.

I thank the Chair. I thank my colleagues.

I yield the floor.

#### CHARLES L. KADES—A FOUNDING FATHER OF MODERN JAPAN

Mr. KENNEDY. Mr. President, 50 years ago next month, Col. Charles L. Kades, an aide on the staff of Gen. Douglas MacArthur, was placed in charge of an historic project to monitor and assist in the drafting of a new constitution for Japan. Colonel Kades worked in obscurity at the time, but he did his work brilliantly, and the resulting constitution he helped draft laid the groundwork for Japan to recover from the ashes of World War II and become one of the world's strongest democracies and one of the world's strongest economies. In no small measure, that historic success is the result of the vision, talent, and commitment of Charles Kades.

After his landmark service in Japan, Colonel Kades returned to the United States and practiced law with great distinction for many years in New York City. He retired in 1976, and moved to Heath, MA, where he now lives at the age of 89.

Over the years, the true magnitude of his historic contribution to Japanese democracy has become better known. As the golden anniversary of his golden achievement approaches, it is a privilege for me to take this opportunity to commend the extraordinary leadership he demonstrated 50 years ago. The dramatic story of his work was told in detail in an excellent article last year in the Springfield Sunday Republican, and I ask unanimous consent that the article may be printed in the RECORD.

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

[From the Sunday Republican, Springfield, MA, Feb. 19, 1995]

HEATH RETIREE AN UNLIKELY FOUNDING FATHER OF JAPAN—LAWS WRITTEN 49 YEARS AGO

(By Eric Goldscheider)

HEATH.—In recent years scores of Japanese journalists and constitutional scholars have made the trek up to this Western Massachusetts hill town to see an 89-year-old retiree named Charles L. Kades.

Not only did he write the Japanese constitution but he owns one of the only readily accessible transcripts of the proceedings that led to its ratification 49 years ago.

Kades (pronounced KAY-dees) is an unlikely founding father of the country that today boasts the world's second biggest economy. Before arriving there as a colonel in Gen. Douglas A. MacArthur's occupation force two weeks after VJ Day in August 1945 he had never even read anything about Japan.

"I wasn't in Japan because I knew anything about Japan, I didn't know a damn thing about Japan," he said during a recent interview in his unassuming house a couple of miles from the Vermont border.

Nor did he have any special expertise in constitutional law. He had studied law and practiced in New York City before the war. He had some knowledge of the New York State constitution because he had to learn it for some of the corporate cases he handled. He had also served as the assistant general counsel under two cabinet secretaries in the Roosevelt administration.

None of this adequately prepared him, he said, for a day he remembers well—February 3, 1946. That was the day Major General Courtney Whitney put him in charge of a 16-member task force assigned to write a draft constitution for the country they were occupying.

"I said, 'When do you want it?'" Kades recalls. "He said you better give it to me by the end of the week." That was six or seven days. "I was completely flabbergasted because I thought he was going to say 'a few months or June or something like that,'" said Kades.

The story of how he came to be in this position is more involved than simply being called into his boss's office and being given a task to perform. Kades is glad to tell it but he imposes one rule on himself. He absolutely will not comment on current Japanese political debates even though he is often called upon to do so.

"They're none of my business," he tells all comers.

When Kades arrived in Japan as a member of the Government Section of the General Headquarters of the Supreme Commander of the Allied Powers (SCAP) there was no talk of his office being involved in the business of constitution writing. That was to be a job for the Japanese to do themselves in a commission headed by Joji Matsumoto, a corporate lawyer and a professor of law at the Tokyo Imperial University.

#### PROGRESS WAS NIL

The problem was that they weren't making very much progress. Then an even bigger problem emerged. A reporter from a leading Japanese newspaper swiped a copy of the draft they were working on and published it.

"That is what you would call a 'scoop,'" Kades recounts as a grin spreads across his face. "The commissioners left a draft on the table and went to lunch."

The Americans had this purloined document translated and found that it was short on democratic reforms and that it didn't substantially revise the Meiji constitution of 1889 under which militarism flourished that led to the war. For example, in the Meiji constitution the emperor's rule was "sacred and inviolable," and in the revised version the emperor's rule was to be "supreme and inviolable."

The government protested and said that the published draft didn't accurately reflect the work of the commission. "When the government denied that was the correct version we asked them to hand over the correct version—it wasn't very different," says Kades.

As it happens, just before the Japanese government was caught with its pants down by an alert reporter, Kades was in the process of preparing a memo arguing that Gen. MacArthur had the legal authority to revise the constitution. This argument rested on the text of the Potsdam Declaration in which the leaders of the United States, England and China proclaimed that among the terms under which hostilities would cease the Japanese government had to "remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people. (And that) freedom of speech, of religion, and of thought, as well as respect for the fundamental human rights, shall be established."

#### STANDARDS LACKING

The document the Japanese were working on didn't live up to this standard. At first Whitney wanted Kades to prepare a memo outlining the American objections to the draft. Then word came down from MacArthur that this would only be a waste of time "ending up with a lot of exchanged memos." The decision was made that the Americans would prepare their own draft.

This is the point at which a mystery about the Japanese constitution ensued that remains unsolved to this day.

When Whitney charged Kades and his group with the task of writing the constitution within the week, he handed him some hand-written notes for him to use as a starting point. Scholars are still curious whether these notes reflected the thoughts of Whitney or MacArthur.

There are three possibilities, said Kades: the notes were written by MacArthur, they were written by Whitney or they were dictated to Whitney by MacArthur. Kades said he kept those notes in his field safe until the end of his 3½-year tour of duty. When he left Japan he returned them to Whitney and they have since disappeared. His hunch is that the notes reflected MacArthur's thinking.

#### CONSTITUTION TEAM

When Kades and his group set to work on the constitution, the first thing they did was to divide up the task according to their various talents and areas of expertise. Five of the 16 officers had been lawyers in civilian life. There was a former congressman, the editor and publisher of a chain of weekly newspapers in North Dakota who had also served as the public relations officer for the Norwegian embassy in Washington. A few university professors, a foreign service officer and a partner in a Wall Street investment firm were also part of the team.

Committees comprised of one to three people were formed to draft articles on such things as the roles of the executive, the legislature and the judiciary. An academic who had at one time edited a journal on the Far East headed the committee on the executive. The foreign service officer was told to deal with questions surrounding treaties. A social science professor dealt with civil rights, the banker was the sole member of the finance committee and so it went.

Between them they collected constitutions of a dozen other countries from libraries around Tokyo. Some of them were familiar with various state constitutions from the United States. Kades emphasizes, though, that the primary sources they drew on for their work was the existing Japanese constitution of 1889 as well as drafts prepared by some of the political parties in existence at the time.

Kades isn't sure why MacArthur was in such a hurry for his group to finish the draft. His best guess is that elections had been set for the middle of March 1946 and that it was anticipated that the constitution would become a campaign issue. Also, if they delayed,

MacArthur feared that their work would be hampered because, with the passage of time, China and the Soviet Union would get into the position of being able to veto any new constitution.

#### FINISHED ON SCHEDULE

Kades' group finished their work on schedule. On Feb. 13 Whitney met with the Japanese group telling Matsumoto that their revision was "wholly unacceptable to the supreme commander as a document of freedom and democracy" before handing him a copy of the document drafted by the Americans.

The next weeks were devoted to meetings with the Japanese constitutional commission to hammer out the final wording of the document that would be submitted to the Japanese Diet (the equivalent of the U.S. Congress) for ratification.

The last negotiating session went 34 hours without a break.

They finished on March 4. Two days later the cabinet and the Emperor accepted it and it was approved by MacArthur that night.

#### OVERSAW RATIFICATION

But this isn't the end of the story.

In the following months and through the summer, Kades was responsible for overseeing the ratification process of new the constitution. His instructions were to let the newly elected legislature amend his document in any way as long as they didn't violate the basic principles laid out in the Potsdam Declaration.

Kades recalls that he would be asked what kinds of changes would violate these principles. His response was along the lines of Justice Stewart Potter's observations on pornography. "I can't define it but I know it when I see it."

A number of things were changed, such as the striking of a clause under which aliens would be accorded equal protection under the law. Kades was sorry to see that go but he didn't think he had the mandate to intervene on such questions.

The deliberations of the Diet were transcribed and sent to Kades every day. He kept those documents and has since had them bound. Unlike in the U.S. where the Congressional Record publishes the proceedings of Congress, under Japanese law only members of the Diet have access to transcripts of legislative deliberations and they are not allowed to remove or copy those transcripts. That is how Kades came to be in possession of one of the only sources scholars interested in the proceedings can go to. There are other copies but they are in disarray.

Once the draft constitution was debated, revised and ultimately ratified by the Diet it was promulgated by the Emperor on November 3, 1946, nine months to the day after it was conceived by MacArthur, Kades wrote in an account of the process published in an American academic journal six years ago. The process by which it was introduced by the emperor to take effect six months later was in accordance with the process for amending the constitution laid out by the Meiji constitution of 1889. "We wanted as much legal continuity as possible," said Kades, in order to give the new document "more force."

#### LAWS NEEDED REWRITE

Still Kades' work wasn't finished. After the constitution was in place, many of the laws had to be rewritten in order to bring them into line with the new order. Kades had a hand in this process and was sent a team of legal experts from the U.S. to help him. Among them was Alfred Oppler, a judge in prewar Germany who had been purged by Hitler. He went to the United States and worked as a gardener while teaching himself English. His help was invaluable, Kades says, because of his knowledge of German law. The Meiji constitution Kades had taken as a template was based on the Prussian constitution

of its time and was grounded in statutory law rather than the common law traditions of England and the United States.

#### DURABLE DOCUMENT

The Kades constitution has been remarkably durable, a point Kades offers to support his contention that it reflected substantive input from those who would later live under it. "I don't think it could have lasted 50 years" had it been forced on the Japanese, he says. Another reason for its durability, he says, is that there are enough groups such as women, labor unions, and local government entities who could stand to lose protection if the constitution were tampered with.

"Women have more rights under the Japanese constitution than in the U.S.," Kades says.

Whenever the idea of revision is raised, all these groups band together to forestall it.

The strongest push to revise the constitution came out of the Gulf War in 1990.

One of the most unusual aspects of the Kades document is Article 9 which prevents Japan from having an army other than a minimal self-defense force. This is the basis on which the Japanese say they are precluded from participating in multi-national military operations like Desert Storm.

#### REVISIONS PUSHED

A leading Tokyo newspaper, Yomiuri Shimbun, (not the same paper that published the unauthorized copy of the draft constitution 49 years ago) is pushing to revise the Kades constitution so as to allow the Japanese to increase the strength and scope of its armed forces. A think tank associated with that newspaper has even drafted a revised constitution.

Partly as a result of this controversy, Kades has become a much sought after interview subject in recent years. Television crews from England, Australia and the U.S. in addition to several from Japan have come to his home. He estimates that he has given 60 interviews in the last several years.

He was invited to Japan where he was interviewed by a documentary film crew. He also appeared on the equivalent of one of our Sunday morning political talk shows on which two leading politicians debated the issue. He has also been sought out by journalists and scholars seeking comments on aspects of the post-war occupation about which he has no particular expertise such as educational reform and civil liberties. Study of the occupation "is a whole industry in Japan," Kades says.

Out of these experiences, Kades has learned that anything he says about current debates can be distorted. Statements he has made in his home in Heath, he says, have resulted in "indignant" phone calls from half way around the globe. Even if his statements aren't distorted, he says, he feels he simply isn't competent to be involved in current controversies.

To make it easier for him to stick to his self-imposed rule not to talk about potential revisions of his constitution, he keeps next to his phone a typed message that he took from a speech by former Secretary of State Cyrus Vance saying that "outsiders should keep their hands off" Japan's internal affairs.

One of the people most interested in Kades' comments was Kikuro Takagi, a senior editor of Yomiuri Shimbun—the largest circulating newspaper in the world. Takagi lives in New York City and he is among those who trekked to Heath to seek a comment on the new draft constitution his newspaper is promoting. Kades refused to even read it in his presence.

#### MODEL FOR PEACE

Reached in New York, Takagi says he thinks Kades opposes the revisions and that

he shares the view of one of his former assistants, Beate Sirota-Gordon. She maintains that the Japanese have undergone remarkable political and economic development for 49 years under the old document that precludes all but a minimal defense force. "Article 9 is really a model for peace that should not be amended, rather it should be copied by other countries . . . changing Article 9 would be a very sad thing," says Sirota-Gordon who, at the age of 22, drafted the women's rights section of the Kades constitution.

Sirota-Gordon gives Kades a lot of credit for what she considers to be a shining moment in world history. "It is an unusual situation when an occupation force is inclined to do something beneficent rather than vengeful," she said in an interview from her home in New York.

When pressed on Kades' reactions to attempts to update the constitution Takagi said, "he gave us a very delicate reply." Takagi said his paper didn't publish Kades' thoughts because "we are trying to push up our revision to our leaders . . . this is a very delicate political and psychological issue so we are holding on to Mr. Kades' reply for now."

After the war, Kades returned to the relative obscurity of a New York City lawyer. He bought the house in Heath in 1967 as a summer residence and moved there full time when he retired in 1978. He lives there now with his wife Phyllis.

Asked what he likes to do when he isn't fielding questions about the Japanese constitution Kades smiles and says, "drink beer." Then he adds, "in the summer time I have to take care of some of the grass around here." He also likes to read about current events and he keeps up on the books that come out about Japan. He has been to the Far East sometimes visiting the children of people he knew when he was there during the occupation. One of them took him to the office where he and his team wrote the constitution. It now houses the Dai Ichi Insurance Co.

Reflecting on the heady days 49 years ago, Kades looks briefly into the fireplace warming his living room and says matter of factly, "it certainly has changed my retirement."

#### THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, before discussing today's bad news about the Federal debt, how about another go, as the British put it, with our pop quiz. Remember—one question, one answer.

The question: How many millions of dollars in a trillion? While you are thinking about it, bear in mind that it was the U.S. Congress that ran up the enormous Federal debt that is now about \$12 billion shy of \$5 trillion.

To be exact, as of the close of business Friday, January 19, the total Federal debt—down to the penny—stood at \$4,988,397,941,589.45. Another depressing figure means that on a per capita basis, every man, woman, and child in America owes \$18,934.39.

Mr. President, back to our quiz—how many million in a trillion?: There are a million million in a trillion, which means that the Federal Government will shortly owe \$5 million million.

Now who's not in favor of balancing the Federal budget?

#### HONORING LAUZON MAXWELL FOR HIS WORK ON BEHALF OF THE MID-CONTINENT LIBRARIES

Mr. ASHCROFT. Mr. President, today I rise to salute the tireless efforts of a Missourian who has worked and given of his time, and himself for one of our country's most precious resource, our libraries. The Mid-Continent Public Libraries serve Clay, Jackson, and Platte counties in the Kansas City, MO, area and provide a valuable service to the community.

Lauzon Maxwell was selected as building manager for the Mid-Continent Public Libraries in 1985, after the library was given authority to oversee its own building projects. In the next 8 years, Mr. Maxwell oversaw the task of building and remodeling 25 facilities, many times having between three and five projects under construction at the same time. Most projects were completed under budget. These projects translated into an additional four branch libraries, four expanded buildings, and a warehouse for the Mid-Continent Library system totaling an additional 381,769 square feet of new or remodeled facilities between 1985-95.

Through his hard work and leadership in the Mid-Continent Library's expansion project, the libraries have provided better library services to their clientele in the Kansas City area. Our libraries are an investment in our communities, and the outstanding services of Mid-Continent Libraries are a credit to their communities. I commend Lauzon Maxwell for his outstanding service and dedication in the leadership of the building projects of the libraries of Kansas City. They are noteworthy and exemplary.

#### TRIBUTE TO THE LATE TOM GARTH

Mr. THURMOND. Mr. President, the new year started out sadly for the members, friends, staff, and alumni of the Boys & Girls Clubs of America when the president of that organization, Mr. Tom Garth, passed away.

What is today the Boys & Girls Clubs of America can trace its history back to 1860, when the first Boys Club was opened in Hartford, CT. The streets of America's cities during that period were not friendly places, they were often dirty, crowded, and dangerous. The establishment of Boys and Girls Clubs gave young men and women not only a safe haven from the temptations and evils of urban settings, but also allowed them to pursue activities that developed their minds and bodies.

While our Nation has grown and changed in many ways in the last 136 years, much remains the same. Contemporary America is a place with an abundance of obstacles for our youngest citizens. In our cities, drugs and gangs present a deadly lure to urban children; and in our suburbs, teenagers are easily bored by the stale environment which monotonous suburbs create and juveniles are often enticed into