When the health care leaders and the interested public can move together to plan realistically to meet community health needs we have an example of the American spirit at work which needs to be more active than it is now.

You are also illustrating that private initiative can blend in well with public and non-profit health care organizations.

As you know, the capital used to construct these new facilities came solely from our private enterprise system. There is no government money and no public subscription money involved. I am pleased that investor-owned health facilities are playing an increasingly important role in meeting our health care needs, not only here but throughout the Nation. Many such hospitals are developing a well-deserved reputation for improving the image of profit hospitals.

Many investor owned hospitals are leading the way in applying sound business methods and financial practices to hospitals. And the expertise is already improving, directly and by example, the administration of non-profit hospitals. No longer do so many proprietary hospitals avoid providing the many subsidized community type services which other hospitals have provided. No longer do so many proprietary hospitals tend to admit only short-term patients where income-to-cost ratios are favorable.

It is clear that the planning and foresight which have gone into these facilities should provide a high level of quality in the health services provided. And it is also clear that these services are intended to be provided at the lowest costs possible. The professional management which will administer the hospital on a day-to-day basis should help achieve this objective. But the day-to-day activities of physicians who are conscious of costs to patients and third party payers will contribute just as much I am sure.

In closing, it seems to me that we break this ground under very auspicious circumstances. Success seems to be assured because the ingredients of success are all here—the need for new health services, a group of dedicated people who see the need and are willing to meet it, a carefully constructed plan for meeting the need, and the private capital to finance it all.

To all of you who have worked so hard to see thsi day come true. I borrow an old phrase from our Navy and say simply, "well done."

SECRETARY RICHARDSON'S CLEAR AND FORTHRIGHT STATEMENT ON TRANSFER AUTHORITY

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, there is controversy over the proposed transfer authority for defense purposes which is carried in the supplemental appropriations bill. I feel that the issue is clear and I have no misgivings about the need for the transfer authority. The matter was dealt with in a clear and forthright manner when Defense Secretary Richardson appeared on May 7 before the Defense Subcommittee of the Senate Appropriations Committee. The facts which he set forth should be studied carefully, particularly by those who find that the question poses a serious problem for them.

I submit the Secretary's statement for printing in the CONGRESSIONAL RECORD:

STATEMENT OF HON. ELLIOT L. RICHARDSON, SECRETARY OF DEFENSE

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before you to discuss the request now pending before this Committee to provide to the Department of Defense an additional transfer of $500 million.

This additional transfer authority is needed to cover existing critical shortages of military personnel and operation and maintenance funds for baseline forces worldwide. These are all annual appropriations. If the transfer authority is not provided, it will be necessary to curtail drastically the operations of our forces—those in Europe, the Mediterranean and the Pacific, and the CONUS training and support establishment as well.

This shortage of operating funds arises from three causes, primarily: (1) currency revaluation—about $110 million; (2) higher subsistence costs, in turn resulting from the increase in food prices—about $60 million; and (3) a higher-than-programmed rate of activity in Southeast Asia during the second half of FY 1973—about $175 million, most of which has been obligated to date.

Because of these three developments, the Department of Defense has been obligating funds from Military Personnel and Operations and Maintenance accounts at a deficiency rate, that is, at a faster rate of obligations than was programmed or budgeted and appropriated. There are, therefore, inadequate amounts remaining in these accounts to sustain the baseline forces to which the accounts are applicable for the remainder of the fiscal year.

The troops must be fed, for example, and the higher food costs, as well as current forces and levels of activity, must be financed from these operating accounts. Meantime, there are very limited possibilities for effecting offsetting cutbacks within these same appropriations in the short period of time remaining in this fiscal year. Separating personnel, for example, could not provide any relief in the last few months of this fiscal year; one-time separation costs, incurred after lengthy notification periods, would more than offset any payroll savings. Since about 80% of Defense operating costs involve pay, a cutback in the non-pay area, concentrated in the two remaining months, would be crippling.

The only recourse available to the Department is to propose that the shortages in annual operating funds be covered by transfers from other accounts. This would be accomplished by deferring or eliminating longer-term investment programs. While this is not a desirable alternative, it is nevertheless, all things considered, clearly the least undesirable. If this alternative is foreclosed by denying the transfer authority, the impact cannot be restricted to the factors which caused the shortage. We are already paying, and cannot avoid, the higher costs for food and foreign exchange, and the cost of the higher level operations in Southeast Asia.

If the transfer authority is not provided, then a number of drastic actions would have to be considered immediately. The would include standing down forces; curtailment of flying hours and steaming hour programs; reduction or elimination of scheduled training operations; cancellation of supply procurements, leading to gaps in operational support; deferral or cancellation of maintenance; and a freeze on promotions, military enlistments, and civilian and military personnel accessions.

These actions would have to be general and worldwide in nature. They would not be felt in Southeast Asia operations, both because of the priority nature of these operations and because during the next two months they will consume only a relatively small proportion of our Defense effort.

Let me be specific. The relationship of the issue of whether we continue U.S. air operations over Cambodia between now and the end of Fiscal Year 1973 bears only to a very slight degree on our requirements for the additional transfer authority. No authority is being sought to obtain funds for munitions procurement accounts. The only costs related to the U.S. air operations which we seek authority to transfer funds are those for POL used on the missions—a relatively small amount. Indeed, the incremental impact on the degree of stand down of baseline forces which would result from continuing air operation over Cambodia through June 30, as compared to the impact of a denial of the requested transfer authority, would not by any means be determinative of the question of whether such operations are to be continued. The cost impact on the accounts which have been obligated at a deficiency rate would probably be on the order of $25 million, some 5 percent of the total transfer authority requested.

Should the requested transfer authority be denied, therefore, the bulk of the cuts would fall with near-crippling effect upon other units: forces in Europe, the Mediterranean, and the Atlantic; other areas in operational, training and support units in the United States.

The readiness of our worldwide forces would be degraded to a dangerously low level during the next two months, with recovery extending for several more months into the next fiscal year.

As you know, Mr. Chairman and Members of the Committee, the implementation of this transfer authority would be accomplished by reprogramming actions, each of which would be submitted to this Commtitee for its specific approval.

While the circumstances which bear on two of the three primary causes of the need for additional transfer authority—currency revaluation and increased food prices—are self-evident, I would like to comment in some detail on the factors related to one aspect of the higher-than-programmed rate of activity in Southeast Asia during the second half of fiscal year 1973, that is, the U.S. air operations over Cambodia since January.

For many years the United States has pursued a combination of diplomatic and military efforts to bring about a just peace in Vietnam. These efforts were successful in strengthening the self-defense capabilities of the armed forces of the Republic of Vietnam and in bringing about serious negotiations which culminated in the Agreement on Ending the War and Restoring Peace in Vietnam, signed at Paris on January 27, 1973. This Agreement provided for a cease-fire in Vietnam, the return of prisoners, and the withdrawal of United States and allied armed forces from South Vietnam within sixty days. Article 20 required the withdrawal of all foreign armed forces from Laos and Cambodia and obligated the parties to refrain from using the territory of Cambodia and Laos to encroach on the sovereignty and security of other countries, to respect the neutrality of Cambodia and Laos, and to avoid any interference in the internal affairs of those two countries. The inclusion of this Article rested on the fact that the conflicts in Laos and Cambodia had long been so inter-related to the conflict in Vietnam as to be necessarily considered parts of a single conflict.

Years before the Paris Agreement, the conflict for control of South Vietnam had spread into Laos and Cambodia. Cambodian territory was used by the North Vietnamese for essential lines of communication. It was in large measure the restrictions on these lines of communication which permitted the strengthening of the South Vietnamese military posture; a strengthening that contributed to the North Vietnamese decision to undertake meaningful negotiations. Cambodia was and is now in every sense an integral part of the battlefild in the conflict for control of South Vietnam. Should the North Vietnamese be permitted to gain control of Cambodia, it would permit them to establish a staging area from which to renew large-scale attacks aimed at accomplishing a military take-over in South Vietnam.

Consequently, at the time the Vietnam Agreement was concluded, the United States made clear to the North Vietnamese that the armed forces of the Khmer Government would suspend all offensive operations and that the United States aircraft supporting them would do likewise. We stated that, if the other side reciprocated, a *de facto* cease-fire would thereby be brought into force in Cambodia. However, we also stated that, if the communist forces carried out attacks, government forces and United States air forces would have to take necessary counter measures and that, in that event, we would continue to carry out air strikes in Cambodia as necessary until such time as a cease-fire could be brought into effect. These statements were based on our conviction that it was essential for Hanoi to understand that compliance with Article 20 of the Agreement would have to be reciprocal.

In short, Cambodia was included in the Paris Agreement, since the conflict there was an integral part of the war in Vietnam.

Despite the fact that the Government of Cambodia did, in compliance with Article 20 of the Paris Agreement, unilaterally declare a cease-fire, the forces attacking the Government of Cambodia continued the conflict, and, indeed, substantially increased the tempo of their offensive. Currently, there are at least 70–75,000 troops located in Cambodia opposing the Government of Cambodia, of which about half are Vietnamese.

Prior to January 27, 1973, the President had the authority to use the means at his disposal to bring the conflict to a conclusion and as we are all aware the means used were military, political and diplomatic in character.

The Agreement on ending the war and restoring peace in Vietnam signed on January 27, 1973 embodied a plan for the termination of the conflict to which the parties agreed. The actual termination of the conflict, however, remained contingent on the implementation of the Agreement. That implementation has not yet been accomplished in full, particularly with respect to the provisions of Article 20 as they relate to Cambodia. Consequently the conflict in that portion of the battlefield continues. It follows that the President's authority to use military, political and diplomatic means to fully terminate the conflict must also continue. The mere signing of the Paris Agreement on a plan for terminating the conflict could not in itself terminate such authority.

Our current efforts in Cambodia have as their objective preserving the military status quo there while we continue to pursue the implementation of Article 20 by political and diplomatic means. As you all know, Dr. Kissinger is currently on a trip to Moscow. He will soon be participating in negotiations with the North Vietnamese in Paris. It is imperative, in the meanwhile, that we continue to assist in preventing the North Vietnamese from gaining any significant military objective through violation of the Paris Agreement.

I have discussed the situation in Cambodia at some length, Mr. Chairman, because our activity there has been by far the most controversial contribution to the need for additional transfer authority. It must be emphasized again, however, that the denial of the requested authority will not impact on U.S. air operations in Cambodia, but across the board on operations of our baseline forces worldwide. As I have pointed out, the readiness of our forces would be degraded to a dangerously low level during the next two months.

I cannot urge too strongly the approval of our request for this additional reprogramming authority.

That completes my statement, Mr. Chairman. I will be pleased to answer the Committee's questions.

ISRAEL'S 25TH ANNIVERSARY

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, this week the state of Israel observes the 25th anniversary of the founding of that valiant nation.

It was on May 15, 1948, that Israel came into being, bringing into reality the dreams which Jewish people worldwide had nurtured for centuries. Barely larger than the State of New Jersey, Israel is populated by 3 million dedicated people striving to create for themselves freedom and opportunity, a sound economy, and a solid niche in international affairs.

Israel is no stranger to adversity. Its people have overcome adversity from the beginning. Nor has it failed to prove its mettle as a nation. Forces from the hostile outside environs have striven to topple the country's government through terrorism and outright war. But in each case, the people of Israel have risen to the challenge and have come out the victor.

Today, controversy still swirls around the country as rumors of war and near war surround its every diplomatic move. But it is a strong country with strong-willed people who are determined to remain a free and independent state.

Back in 1948, there were those who saw little chance Israel would survive as a nation for even a few years let alone a quarter century. They foresaw the possibility of early domination by the Arab States by which Israel is surrounded and which see Israel as a threat to Middle East political and economic stability. Yet Israel has survived because of the fortitude, spirit and dedication of the people who live there. Now people around the world admire the courage and determination of this small band of people who settled in the land of their fathers and who have overcome bleak prospects and hostile environment to prosper. Israel lives on, hopefully in peace, but its people are prepared to defend themselves to their last breath if it is required of them.

I join freedom-loving people across the globe in expressing my best wishes to Israel on the occasion of its 25th anniversary as a nation, and I further join in the fervent hope that true peace soon will come to the Middle East and that all people there—Arab and Israeli—some day will live in harmony and mutual trust.

(Mr. RANDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

[Mr. RANDALL's remarks will appear hereafter in the Extensions of Remarks.]

(Mr. RANDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

[Mr. RANDALL's remarks will appear hereafter in the Extensions of Remarks.]

BILL INTRODUCED TO OVERSEE "APOLITICAL" CIA

(Mr. FINDLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FINDLEY. Mr. Speaker, the Central Intelligence Agency's cooperation in the burglary of the office of Daniel Ellsberg's psychiatrist in September 1971, stands in stark contrast to protestations of apolitical conduct made by Director Richard Helms in September of last year. In Helms' report to the House Armed Services Committee on a bill I introduced in 1971 and have reintroduced today, the Director of the CIA stated that enactment of the bill would "jeopardize the performance of the functions imposed upon this Agency" because it would "tend to politicize that which must remain apolitical to retain its value."

Helms also affirmed that my bill would "diminish the Agency's resources and capability to serve any one of its clients and inevitably lead to irreconcilable conflicts of priority and interest" and would appear to be "in conflict with the constitutional separation of powers by subjecting the Agency to executive direction from two separate branches of Government."

The CIA obviously needs new direction. The Agency was formed to serve the foreign policy and national security objectives of the United States, not to aid and abet in the burglary of a psychiatrist's office. Director Helms' intimation that the CIA should serve only the President is clearly without foundation. The National Security Act states that the CIA should "provide for the appropriate dissemination of such intelligence within the government."

The Government includes the Congress.

To borrow Director Helms' own words, the burglary of Ellsberg's psychiatrist's office shows that the CIA is already involved in "irreconcilable conflicts of priority and interest."

Congress needs to establish means of determining just what the Central Intelligence Agency is doing, at home and abroad. I think I can safely say that fewer than a dozen Members of Congress have any idea how much money the CIA spends each year, and probably none of them has much of an idea what the Agency actually does with that money. My hunch is that the CIA spends more than $2 billion a year. Certainly no Member of Congress knew the Agency was spending congressionally appropriated money to burglarize a psychiatrist's office. How many more outrages of this kind are being perpetrated?

The bill I am introducing today, which was sponsored by Senator JOHN SHERMAN COOPER and reported favorably by the Senate Foreign Relations Committee last year, would require the CIA to report regularly to the House Foreign Affairs and the Senate Foreign Relations Committees, as well as the two Armed Services Committees. The reports would deal with all "intelligence information collected by the Agency concerning relations of the United States to foreign

countries and matters of national security."

Oversight of the CIA, which this bill would clearly establish, needs to be squarely lodged with the appropriate committees of Congress. Nothing demonstrates that more than the recent activities of that Agency.

Text of Helms' letter follows:

SEPTEMBER 28, 1972.

Hon. F. EDWARD HÉBERT,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in response to your request for recommendations concerning H.R. 10204 and an identical bill, H.R. 16334, "To amend the National Security Act of 1947, as amended, to keep the Congress better informed on matters relating to foreign policy and national security by providing it with intelligence information obtained by the Central Intelligence Agency and with analysis of such information by such agency."

Generally, H.R. 10204 and H.R. 16334 require the transmittal of certain Agency information and analysis and the performance of certain activities for the Senate Armed Services and Foreign Relations Committees and the House Armed Services and Foreign Affairs Committees. Specifically, the bills:

(a) require full and current Agency reporting and analysis to the committees of all intelligence information collected by the Agency concerning relations of the United States to foreign countries and matters of national security;

(b) authorize any one of the four committees to impose special reporting, analysis, and, implicitly, related collection requirements upon this Agency;

(c) provide access to this information and analysis to all Members and all congressional employees designated by a Member and determined by the committee concerned to have necessary security clearances.

As you know, we have consistently made ourselves available to a number of congressional committees to provide substantive intelligence briefings and to answer questions which fall within their jurisdiction. The principal recipients of these briefings are: the Aeronautical and Space Sciences, Appropriations, Armed Services, and Foreign Relations Committees of the Senate; the Appropriations, Armed Services, Foreign Affairs, and Science and Astronautics Committees of the House; and the Joint Committee on Atomic Energy and the Joint Economic Committee. This current arrangement appears to have been satisfactory from the standpoint of the committees and has not been inconsistent with the responsibilities Congress has imposed by law upon the Director of Central Intelligence to protect intelligence sources and methods.

H.R. 10204 and H.R. 16334, on the other hand, pose a number of serious problems:

(a) The authority of congressional committees to impose special reporting, analysis and related collection requirements upon the Agency appears to be in conflict with the constitutional separation of powers by subjecting the Agency to executive direction from two separate branches of Government;

(b) The five-fold increase in the number of statutory clients for the Agency from one (the President as Chairman of the National Security Council) to five (the President and four separate committees of the Congress) would diminish the Agency's resources and capability to serve any one of its clients and inevitably lead to irreconcilable conflicts of priority and interest;

(c) Widespread access throughout the principal political branch of our Government to all Agency information and analysis made available to the four committees would tend to politicize that which must remain apolitical to retain its value;

(d) It is impossible to divorce completely all of the intelligence information subject to the bills from the sources and methods used in its collection. Any derogation in our ability to protect such information increases the possibility that vital sources of information will be irretrievably lost.

In view of the above considerations, I believe that enactment of either H.R. 10204 or H.R. 16334 would jeopardize the performance of the functions imposed upon this Agency by the National Security Act of 1947 and recommend against their favorable consideration by your Committee.

The Office of Management and Budget advises that there is no objection to the submission of this report and that enactment of either H.R. 10204 or H.R. 16334 in their present form would not be consistent with the Administration's objectives.

Respectfully,

RICHARD HELMS,
Director, Central Intelligence Agency.

CAMBODIA BOMBING HALT

(Mr. FINDLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FINDLEY. Mr. Speaker, Thursday, during consideration of the second supplemental appropriations bill, at least one amendment will be offered to limit U.S. military activities in and over Cambodia. Recent statements by the Secretary of Defense indicate that simply eliminating the authority to transfer funds as provided in section 735 of H.R. 7447 will be inadequate to accomplish the desired goal.

The Secretary maintains that such a move as proposed by Congressman GIAIMO and others would not prohibit the use of funds for bombing Cambodia but would harm our defense and security position in other parts of the world.

In order to overcome this difficulty, a more restrictive amendment has been proposed by Congressman LONG, strictly limited in its impact to funds provided for Cambodia. However, it may be interpreted by the Executive to restrict the use only of those funds transferred in the supplemental and not to apply to those funds otherwise appropriated in the act for defense spending. To preclude such an unwarranted distinction from being made and to give the restriction the broadest effect, it is my intention to offer the following amendment to the bill to make it abundantly clear that no funds provided by the bill should be used for Cambodia.

"On page 6, after line 12, insert the following new paragraph:

"None of the funds provided by this Act shall be used to suport mobing or other combat operations in Cambodia by United States military forces.'"

It is possible that some justification can be advanced for the continued bombing in Cambodia, but as of yet, none has been presented to Congress. Secretary Rogers told the Senate Foreign Relations Committee last week:

Unilateral cessation of our United States air combat activity in Cambodia without the removal of North Vietnamese forces from that country would undermine the central achievement of the January agreement as surely as would have a failure by the United States to insist on the inclusion in the Agreement of Article 20 requiring North Vietnamese withdrawal from Laos and Cambodia. The President's powers under Article II of the Constitution are adequate to prevent such a self-defeating result.

Time and again, Secretary Rogers cites article 20 of the Paris Peace Agreement, which he says:

Recognizes the underlying connections among the hostilities in all the countries of Indochina and required the cessation of foreign armed intervention in Laos and Cambodia. The importance of this article cannot be overestimated.

In fact, I think that its importance has been vastly over-estimated. The thrust of the Secretary's statement is that bombing is justified because an international agreement was broken.

The President cannot draw from a peace agreement the power to initiate combat against those who break that agreement. That power must come from the Constitution.

Just as the President cannot imply the carrot of aid to rebuild North Vietnam from his constitutional powers to conduct foreign relations, he cannot apply the stick of war to those who ignore or break agreements into which the President has entered. Under the Constitution, Congress must approve both the carrot of aid and the stick of war, or neither can legally be used.

Secretary Rogers also affirms that:

The purposes of the United States in Southeast Asia have always included seeking a settlement to the Vietnamese war that would permit the people of South Vietnam to exercise their right of self-determination.

Yet Congress has never affirmed this as U.S. policy, nor authorized its implementation. If this is to be U.S. policy, certainly Congress must first approve the use of military force for such a purpose.

Last week, in a letter to President Nixon, I suggested that he request a limited authorization from Congress for the bombing being conducted in Cambodia. My letter, dated Friday, May 4, 1973, stated:

DEAR MR. PRESIDENT: On Thursday the House will consider an amendment to strike the funds for bombing in Cambodia from the Second Supplemental Appropriations bill of 1973, H.R. 7443. It is the belief of many Members that, abent Congressional approval, you lack autthority for the continued bombing. For that reason, some may vote to strike the funds regardless of policy arguments in favor of continued bombing such as those advanced by Secretary Rogers before the Senate Foreign Relations Committee on April 30.

The gist of the Secretary's statement was that bombing is justified because an international agreement was broken. If that justification is accepted, the President could engage our forces in hostilites in the future without Congressional approval whenever any peace agreement is broken.

As you know, the Senate is considering war powers legislation similar to that passed last year, which would limit the authority to commit troops to hostilities without prior approval of Congress, and the House Foreign Affairs Committee is expected soon to take up a similar resolution which has been reported from subcommittee. Substantial support for these measures exists in Congress.

I have no way to forecast the outcome of the vote on Thursday, but it seems possible, perhaps likely, that the motion to strike will be accepted.

My purpose in writing is to suggest that you give consideration to placing before the Congress a request for a limited authorization for the bombing. This would provide an orderly means through which the Congress could consider the merits of the proposal. It would satisfy Congressional determination to participate in decisions involving war powers.

I am hopeful and confident that if such a request is made, the House will defer a decision on the motion to strike until hearings can be completed on your request.

Sincerely yours,

PAUL FINDLEY,
Representative in Congress.

All through the history of U.S. military forces in Indochina, serious question was raised over the constitutionality of the engagement. President Johnson asserted that Congress conveyed authority in the Tonkin Gulf Resolution for all the military actions that ensued.

Personally, I was never satisfied that the resolution was adequate. Nevertheless, it was regarded by Mr. Johnson as adequate, and on several occasions he challenged the Congress to repeal the resolution if it did not wish military operations in Indochina to continue.

The question of the effectiveness of the resolution was settled with its repeal 2 years ago. Since then, in my view, the President has had authority to continue with military operations in Indochina only to the extent that such were required to facilitate the safe withdrawal of our military forces remaining in that area. When our forces invaded Cambodia on the ground, and when air strikes against North Vietnam were resumed and the harbors mined, I defended these actions. I considered them justified as a part of the withdrawal program.

Now that withdrawal has been completed, and our prisoners of war returned, I believe that no authority whatever exists for the President to continue military action in Cambodia, or elsewhere in Indochina.

For these reasons, I believe the House should accept an amendment to the supplemental appropriation bill to deny funds for bombing in Cambodia by U.S. forces:

Bombing is not presently authorized by any law or treaty, nor by any reasonable interpretation of the reserve war powers of the President as Commander in Chief. No report has been made by the President to Congress, nor has any request for authorization of the bombing. The Congress, not the President, should pass judgment.

If amendments to shut off funds for bombing Cambodia are all rejected, the President inevitably will interpret this as clear endorsement of his assertion that he has the right to act without congressional approval.

The fundamental issue is not whether bombing should occur, but who should decide.

STATEMENT SUBMITTED TO THE SENATE FOREIGN RELATIONS COMMITTEE BY THE HONORABLE WILLIAM P. ROGERS, SECRETARY OF STATE

The purpose of this memorandum is to discuss the President's legal authority to continue United States air combat operations in Cambodia since the conclusion of the Agreement on Ending the War and Restoring Peace in Viet-Nam on January 27, 1973, and the completion on March 28, 1973, of the withdrawal of United States armed forces from Viet-Nam and the return of American citizens held prisoner in Indochina. The memorandum also discusses the background of the Agreement of January 27 and the purposes of various United States actions in order to clarify the legal issues.

For many years the United States has pursued a combination of diplomatic and military efforts to bring about a just peace in Viet-Nam. These efforts were successful in strengthening the self-defense capabilities of the armed forces of the Republic of Viet-Nam and in bringing about serious negotiations which culminated in the Agreement on Ending the War and Restoring Peace in Viet-Nam, signed at Paris on January 27, 1973. This Agreement provided for a cease-fire in Viet-Nam, the return of prisoners, and the withdrawal of United States and allied armed forces from South Viet-Nam within sixty days. The Agreement (in Article 20) also required the withdrawal of all foreign armed forces from Laos and Cambodia and obligated the parties to refrain from using the territory of Cambodia and Laos to encroach on the sovereignty and security of other countries, to respect the neutrality of Cambodia and Laos, and to avoid any interference in the internal affairs of those two countries. This Article is of central importance as it has long been apparent that the conflicts in Laos and Cambodia are closely related to the conflict in Viet-Nam and, in fact, are so inter-related as to be considered parts of a single conflict.

At the time the Viet-Nam Agreement was concluded, the United States made clear to the North Vietnamese that the armed forces of the Khmer Government would suspend all offensive operations and that the United States aircraft supporting them would do likewise. We stated that, if the other side reciprocated, a *de facto* ceasefire would thereby be brought into force in Cambodia. However, we also stated that, if the communist forces carried out attacks, government forces and United States air forces would have to take necessary counter measures and that, in that event, we would continue to carry out air strikes in Cambodia as necessary until such time as a cease-fire could be brought into effect. These statements were based on our conviction that it was essential for Hanoi to understand that continuance of the hostilities in Cambodia and Laos would not be in its interest or in our interest and that compliance with Article 20 of the agreement would have to be reciprocal.

It has recently been suggested that the withdrawal of all US armed forces from South Viet-Nam and the return of all US prisoners has created a fundamentally new situation in which new authority must be sought by the President from the Congress to carry out air strikes in Cambodia. The issue more accurately stated is whether the constitutional authority of the President to continue doing in Cambodia what the United States has lawfully been doing there expires with the withdrawal of US armed forces from Viet-Nam and the return of American prisoners despite the fact that a cease-fire has not been achieved in Cambodia and North Vietnamese troops remain in Cambodia contrary to clear provisions of the Agreement. In other words, the issue is not whether the President may do something new, but rather whether what he has been doing must automatically stop, without regard to the consequences even though the Agreement is not being implemented by the other side.

The purposes of the United States in Southeast Asia have always included seeking a settlement to the Vietnamese war that would permit the people of South Viet-Nam to exercise their right to self-determination. The President has made this clear on many occasions. For example, on May 8, 1972, when he made the proposals that formed the basis for the ultimately successful negotiations with North Viet-Nam, he said there were three purposes to our military actions against Viet-Nam: first, to prevent the forceful imposition of a communist government in South Viet-Nam; second, to protect our remaining forces in South Viet-Nam; and third, to obtain the release of our prisoners. The joint communique issued by the President and Mr. Brezhnev in Moscow on May 29, 1972, in which the view of the United States was expressed, said that negotiations on the basis of the President's May 8 proposals would be the quickest and most effective way to obtain the objectives of bringing the military conflict to an end as soon as possible and ensuring that the political future of South Viet-Nam should be left for the South Vietnamese people to decide for themselves, free from outside interference. The recent opinion of the United States Court of Appeals for the District of Columbia Circuit in *Mitchell* v. *Laird* makes it clear that the President has the constitutional power to pursue all of these purposes. In the words of Judge Wyzanski the President properly acted "with a profound concern for the durable interests of the nation—its defense, its honor, its morality."

The Agreement signed on January 27, 1973, represented a settlement consistent with these objectives. An important element in that Agreement is Article 20 which recognizes the underlying connections among the hostilities in all the countries of Indochina and required the cessation of foreign armed intervention in Laos and Cambodia. The importance of this article cannot be overestimated, because the continuation of hostilities in Laos and Cambodia and the presence there of North Vietnamese troops threatens the right of self-determination of the South Vietnamese people, which is guaranteed by the Agreement.

The United States is gratified that a cease-fire agreement has been reached in Laos. It must be respected by all the parties and result in the prompt withdrawal of foreign forces. In Cambodia it has not yet been possible to bring about a cease-fire, and North Vietnamese forces have not withdrawn from that country. Under present circumstances, United States air support and material assistance are needed to support the armed forces of the Khmer Republic and thereby to render more likely the early conclusion of a cease-fire and implementation of Article 20 of the Agreement. Thus, U.S. air strikes in Cambodia do not represent a commitment by the United States to the defense of Cambodia as such but instead represent a meaningful interim action to bring about compliance with this critical provision in the Viet-Nam Agreement.

To stop these air strikes automatically at a fixed date would be as self-defeating as it would have been for the United States to withdraw its armed forces prematurely from South Viet-Nam while it was still trying to negotiate an agreement with North Viet-Nam. Had that been done in Viet-Nam, the Agreement of January 27 would never have been achieved; if it were done in Cambodia, there is no reason to believe that cease-fire could be brought about in Cambodia or that the withdrawal of North Vietnamese forces from Cambodia could be obtained. It can be seen from this analysis that unilateral cessation of our United States air combat activity in Cambodia without the removal of North Vietnamese forces from that country would undermine the central achievement of the January Agreement as surely as would have a failure by the United States to insist on the inclusion in the Agreement of Article 20 requiring North Vietnamese withdrawal from Laos and Cambodia. The President's