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EASTLAND, Mr. JAVITS, Mr. MCGOVERN, Mr. METCALF, Mr. HUDDLESTON, Mr. CHURCH, and Mr. CANNON) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 14832), supra.

AMENDMENT NO. 1503

(Ordered to be printed, and to lie on the table.)

Mr. CHURCH submitted an amendment, intended to be proposed by him, to the bill (H.R. 14832), supra.

AMENDMENT NO. 1505

(Ordered to be printed, and to lie on the table)

Mr. EAGLETON submitted an amendment, intended to be proposed by him, to the bill (H.R. 14832), supra.

Mr. EAGLETON. Mr. President, I send to the desk an amendment to H.R. 14832, an amendment that will insure that the purpose of the Senate is carried out with respect to any tax reforms relating to the petroleum industry. I ask that it be printed and held at the desk, and that the text of the amendment be printed in the RECORD at the conclusion of my remarks.

Mr. President, we have before us the opportunity to enact meaningful tax reform, combining relief for the inflation-squeezed consumer with long-overdue changes in the methods of assessing taxes on oil producers. But should the Senate decide to eliminate or modify either the percentage depletion allowance or the foreign tax credit, as I believe it should, we are faced with the very real prospect of those increased corporate taxes being passed on directly to the consumer and increasing inflation. This, I believe, would be contrary to the purposes expressed by the sponsors of the many amendments dealing with this important topic.

Thus, I offer my amendments as a means of insuring that these additional taxes on the petroleum industry will in fact be borne by the petroleum industry—to be paid out of their tremendous profits—and are not merely passed through to consumers.

Under the authority of the Mandatory Petroleum Allocation Act of 1973, the Federal Energy Administration will retain authority over the prices of petroleum products through February 1975. Since natural gas prices and profits are already tightly controlled by the FPC, my amendment would not affect natural gas producers. My amendment would make clear that, unlike other increases in basic costs, increased taxes as a result of this act would not be accepted as justification for a price rise. My amendment directs this regulatory authority to disallow any increase in the price of crude oil, residual fuel oil or refined petroleum products that would serve to compensate for any increase in income tax liability resulting from amendments to this act. There is a provision to permit some offset to those few small independent companies which would suffer acute financial hardship.

Should any legislator doubt the need for such an amendment, he need only consult the public record. The President of the United States said on May 25 of this year:

> The tax which is transferred to industry simply comes back to the taxpayer in some hidden form, such as higher prices or lower pay.

He used this as sufficient justification to deny needed tax reform legislation. We can today insure that that does not happen in this case.

Oil company profits were up 55 percent last year over 1972, according to Business Week. In the first quarter of this year, similar gains were reported: Texaco, up 123 percent; SoCal, Standard of Indiana, and Gulf, up more than 75 percent. At the same time, we note that gasoline and motor oil purchased by consumers increased in price at a rate of 77 percent over the last 6 months, contributing substantially to the general inflation. Now Congress can, by accepting my amendment, do something positive to control one of the major sources of the inflation which is draining our economy.

There are those who say very high profit levels are necessary to encourage investment in new petroleum resources. I would have no objection to an oil production tax incentive which was tied to actual costs of exploring and developing new wells, but I cannot accept the argument that only unlimited profits can induce new production.

I saw an article in the Wall Street Journal earlier this week reporting that Mobil, whose profits are up 70 percent over a year ago, is considering investing a considerable portion of those gains in the purchase of a controlling interest in Marcor, the holding company for Montgomery Ward. In view of this half-billion dollar department store deal, how are we to conclude that all those profits are necessary for oil exploration?

The plain fact is, today's oil companies' profits are one of the principal forces behind the double-figure inflation we are experiencing. The consumer pays for it not only at the gasoline pumps but to one degree or another in every product he buys. Without an amendment of this kind, legislation to end the oil depletion allowance would probably do very little to control fuel price increases or oil company profits.

AMENDMENTS NOS. 1506, 1507, AND 1508

(Ordered to be printed, and to lie on the table.)

Mr. HARTKE submitted three amendments, intended to be proposed by him, to the bill (H.R. 14832), supra.

AMENDMENT NO. 1509

(Ordered to be printed, and to lie on the table.)

Mr. TUNNEY. Mr. President, I am today offering, for myself and the Senator from Ohio (Mr. TAFT) an amendment to H.R. 14832, the debt ceiling bill. This amendment will accomplish several important objectives.

First, it will help provide the average saver with an inflation offset in the form of a substantial increase in the effective interest rate on savings deposits and the lower interest certificates of deposit.

Second, it will encourage increased savings. These savings will help to offset the massive disintermediation which is today seriously disrupting mortgage and commercial credit markets. The results will be lower borrowing costs, a more adequate rate of growth in the Nation's housing stock and thus reduced inflationary pressure.

The approach proposed by this amendment is counterinflationary in several other ways. By inducing the public to voluntarily increase its savings, the amendment would simultaneously reduce some of the present very heavy pressure of immediate consumption spending, provide needed capital to finance expansion of productive capacity in shortage-plagued industries and make unnecessary an imprudent rate of money supply expansion.

The latter point is especially important. I am extremely pleased with the determination of Federal Reserve Chairman Arthur Burns to hold down growth in monetary aggregates for as long as needed to stop today's runaway inflation. I believe it is the responsibility of Congress to assist the Federal Reserve in this effort. The amendment I am proposing would help relieve today's heavy pressure on financial markets. It thus goes a considerable distance toward dissipating the growing political pressures on the Fed to abandon its difficult but necessary course of monetary austerity.

The amendment itself is quite simple. It provides for a 3-year period, a tax credit of up to $100 to taxpayers who increase their savings. The tax credit would equal the increase in interest income earned in the current tax year over the amount of such income in the previous tax year, up to $100. All savings accounts and certificates of deposit which pay no more than 7½ percent would qualify as sources of interest income for the purposes of this amendment.

A short example illustrates the mechanism proposed in my amendment.

Assume that in 1973 a taxpayer has $1,000 in a savings account. If the account pays 5 percent, the taxpayer will earn $50 interest in 1973. Next, assume that in 1974 the taxpayer increases his or her savings to $2,000 and earns $100 in interest.

Under my proposal, the taxpayer could claim a tax credit of $50—the amount of the increase in taxable interest income.

The principle of this policy is very simple. For each dollar of increased interest income, up to $100, a saver gets $1 of tax credit.

Dollar-for-dollar matching, up to the $100 limit, makes saving much more attractive. In the example I used before, the total return on increased savings of $1,000 is $100. The effective rate of interest is 10 percent—a rate sufficient to fully offset the rate of inflation expected in 1974.

I would like to stress that, unlike previous proposals in this area, the proposed tax credits reward only increases in savings. It provides no windfalls for existing savings. And, by limiting the credit to $100 and to savings instruments which pay no more than 7½ percent, this amendment would insure that the bulk of the benefit accrues to

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the middle and moderate income citizens who so badly need to protect their savings from the ravages of today's inflation.

Mr. President, I intend to offer this amendment to the debt ceiling bill. In the event it is not adopted, I will offer it again at a later date. I welcome the interest and cosponsorship of all other Members of the Senate.

At this point, I ask unanimous consent that the text of the amendment be printed in the RECORD.

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

AMENDMENT NO. 1509

At the end of the bill insert the following new sections:

SEC. . TAX CREDIT FOR INTEREST ON SAVINGS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of Chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by redesignating section 42 as 43, and by inserting after section 41 the following new section:

SEC. 42. CREDIT FOR INTEREST ON SAVINGS.

"(a) IN GENERAL.—In the case of an individual there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount by which the interest on savings received by the taxpayer during the taxable year exceeds the amount of the interest on savings received by the taxpayer during the preceding taxable year.

"(b) LIMITATION.—The amount of credit allowed under this section for any taxable year shall not exceed $100 ($50 in the case of a married individual making a separate return of tax).

"(c) DEFINITIONS.—For purposes of this section—

"(1) INTEREST ON SAVINGS.—The term 'interest on savings' means interest or dividends received on money deposited in a savings account or a time deposit with a financial institution.

"(2) SAVINGS ACCOUNT.—The term 'savings account' means an interest-bearing deposit or account which is not payable on a specified date or at the expiration of a specified time after the date of deposit (although the individual who maintains the deposit or account may be required by the financial institution with which the deposit or account is maintained may require that individual to give notice in writing of an intended withdrawal not less than 30 days before withdrawal is made).

"(3) TIME DEPOSIT.—The term 'time deposit' means a deposit of less than $10,000 which is payable on a specified date or at the expiration of a specified time after the date of deposit and which bears a rate of interest no greater than the maximum rate which may be paid by financial institutions under regulations prescribed under the amendments made by the Act entitled "An Act to provide for the more flexible regulation of maximum rates of interest or dividends payable by banks and certain other financial institutions on deposits or share accounts, to authorize higher reserve requirements on time deposits of member banks, to authorize open market operations in agency issues by the Federal Reserve banks, and for other purposes", approved September 21, 1966 (Public Law 89-597).

"(4) FINANCIAL INSTITUTION.—The term 'financial institution' means—

"(A) a commercial or mutual savings bank whose deposits and accounts are insured by the Federal Deposit Insurance Corporation or otherwise insured under State law;

"(B) a savings and loan, building and loan, or similar association the deposits and accounts of which are insured by the Federal Savings and Loan Insurance Corporation or otherwise insured under State law; or

"(C) a credit union the deposits and accounts of which are insured by the National Credit Union Administration Share Insurance Fund or otherwise insured under State law.".

(b) The table of sections for such subpart is amended by striking out the last item therein and inserting in lieu thereof the following:

"Sec. 42. Credit for interest on savings.

"Sec. 43. Overpayment of tax.".

(c) The amendments made by this section apply to taxable years beginning after December 31, 1974, and ending before January 1, 1978.

AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961—AMENDMENT

AMENDMENT NO. 1504

(Ordered to be printed, and referred to the Committee on Foreign Relations.)

Mr. CHURCH submitted an amendment, intended to be proposed by him, to the bill (S. 3394) to amend the Foreign Assistance Act of 1961, and for other purposes.

PROHIBITING NUCLEAR ASSISTANCE

Mr. CHURCH. Mr. President, I introduce today an amendment to the foreign assistance bill, S. 3394, which would prohibit U.S. nuclear assistance—equipment, materials, scientific information, and technology—being furnished to any country in the world not a party to the Treaty on the Nonproliferation of Nuclear Weapons.

During the last few weeks, the world has witnessed a spurt of nuclear developments in several countries. These events do not bode well for the future. On May 18, India, neither a signer nor a party to the Treaty on Nonproliferation of Nuclear Weapons, set off a nuclear detonation in the Great Rajastan Desert. Its purpose was proclaimed by the New Delhi government as "peaceful." Last week, President Nixon promised nuclear assistance to Egypt, not a party to the NPT, and to Israel, neither a signer nor a ratifier. The President proclaimed these gifts as being for "peaceful purposes." France, one of the 30 nonsigners and nonratifiers of the NPT, has again conducted atmospheric nuclear tests over an atoll in the Pacific Ocean. Just this Monday, China, also not a signer nor a party to the treaty, conducted its 16th nuclear test—15 in the atmosphere and one underground. This latest explosion in the Lop Nor area was a thermonuclear device which is later to be incorporated in a warhead for the intermediate range and intercontinental ballistic missiles that the Peking government is known to be developing. Reports are currently coming in that Pakistan, Iran, Romania, and perhaps others, are knocking at the nuclear door.

I am particularly disturbed that President Nixon has committed the United States, on a grand scale, to furnish nuclear capability to Egypt and Israel, two countries which have fought four hot wars over the last quarter century. Helping Egypt develop nuclear reactors, ostensibly for "peaceful purposes" only masks the political-military potentiality that accrues to any country acquiring the technology to produce its own plutonium for nuclear devices. The temptation easily becomes irresistible, as India demonstrated when it chose to become the world's sixth nuclear power. India received Canadian and American assistance and utilized its own physicists and engineers, who were trained for the most part in the United States, to use the plutonium generated to build a bomb. A similar result might well be anticipated in Egypt, considering the historic animosity it exudes toward its Jewish neighbor, and considering the fact that Israel has pursued, since 1956, an ongoing sophisticated nuclear program of its own, initiated by the French.

In my judgment, the United States should not be the agent for the spreading of nuclear technology outside the framework of the Treaty on Nonproliferation of Nuclear Weapons, which has long been the lodestone of our global policy. In departing from that policy, without the benefit of deliberation or debate, President Nixon may well have sown the dragons' teeth of nuclear destruction throughout the Middle East.

The amendment I offer today is an attempt to prevent the United States from becoming a stimulant to, and supplier of, nuclear equipment, nuclear materials, nuclear scientific information and technology, to any country not a party to the Treaty on the Nonproliferation of Nuclear Weapons.

The American-initiated Treaty on the Nonproliferation of Nuclear Weapons was signed on July 1, 1968. Its purpose was to avert the devastation that mankind would suffer as a result of nuclear war. In the belief that the proliferation of nuclear capability would seriously exacerbate the danger of nuclear war, the treaty was drawn up to prevent wider dissemination of nuclear weaponry. I believe that until a country becomes a party to this treaty, and agrees to abide by its terms, the United States should not bestow it with nuclear capability. In doing so, we only undermine the treaty, itself, by removing the incentive to join.

According to the U.S. Arms Control and Disarmament Agency, the following 30 countries have not signed the Nonproliferation Treaty:

Algeria, Argentina, Brazil, Burma, Chile, China (Peking), Cuba, Equatorial Guinea, France, Guinea, Guyana, India, Israel, Malawi, and Mauritania.

Monaco, Niger, Pakistan, Portugal, Qatar, Rwanda, Saudi Arabia, Sierra Leone, South Africa, Spain, Tanzania, Uganda, United Arab Emirates, Western Samoa, and Zambia.

The following 23 countries have signed, but not yet ratified the NPT:

Barbados, Belgium, Colombia, Egypt, Gambia, Germany (Bonn), Indonesia, Italy, Japan, Korea (Seoul), Kuwait, and Libya.

Luxembourg, Netherlands, Panama, Singapore, Sri Lanka, Switzerland, Trinidad and Tobago, Turkey, Venezuela, Yemen (Aden), and Yemen (San'a).

My amendment reads:

None of the funds authorized of appropriated under this or any other law may be used (1) to transfer United States nuclear equipment or nuclear materials, or to furnish

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scientific information and technology related to nuclear energy, to any country not a party to the Treaty on the Non-Proliferation of Nuclear Weapons, or (2) to transfer such equipment or material or furnish such information or technology to a party to the Treaty unless that party agrees not to transfer such equipment or materials or furnish such information or technology to any country not a party to the Treaty.

I ask unanimous consent that a copy of the Treaty on the Nonproliferation of Nuclear Weapons as signed and ratified by the United States and 83 other countries be printed at this point in the RECORD.

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

TREATY ON THE NONPROLIFERATION OF NUCLEAR WEAPONS

(Signed at Washington, London, Moscow July 1, 1968. U.S. ratification deposited March 5, 1970. Entered into force March 5, 1970.)

The States concluding this Treaty, hereinafter referred to as the "Parties to the Treaty",

Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples,

Believing that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war,

In conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

Undertaking to cooperate in facilitating the application of International Atomic Energy safeguards on peaceful nuclear activities,

Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points,

Affirming the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States,

Convinced that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

ARTICLE III

1. Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfillment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

2. Each State Party to the Treaty undertakes not to provide (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this article.

3. The safeguards required by this article shall be implemented in a manner designed to comply with article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international cooperation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this article and the principle of safeguarding set forth in the Preamble of the Treaty.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this article either individually or together with other States in accordance with the Statute of the International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

ARTICLE IV

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of this Treaty.

2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also cooperate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

ARTICLE V

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. Negotiations on this subject shall commence as soon as possible after the Treaty enters into force. Non-nuclear-weapon States Party to the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

ARTICLE VI

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

ARTICLE VII

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

ARTICLE VIII

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one-third or more of the Parties to the Treaty, the Depositary Governments shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Thereafter, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.

3. Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realized. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

ARTICLE IX

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated Depositaries

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of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.

6. This treaty shall be registered by the Depositary Governments pursuant to article 102 of the Charter of the United Nations.

ARTICLE X

1. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

2. Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty.

ARTICLE XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depository Governments. Duly certified copies of this Treaty shall be transmitted by the Depository Government to the Governments of the signatory and acceding States.

AMENDMENT NO. 1510

(Ordered to be printed and referred to the Committee on Foreign Relations.)

CONGRESSIONAL CONSULTATION ON NUCLEAR AGREEMENTS

Mr. CHILES. Mr. President, the United States is in the process of receiving its relationship with the Middle East in the wake of the energy crisis and the latest Arab-Israeli war. There is no doubt but what the change in our relationship to the Middle East in recent months is the most dramatic in many years, if not in decades. This change affects our other major foreign policy relationships with the Soviet Union and with Europe.

The importance of this to our foreign policy is clear. It is highlighted by the announcement of agreements with Egypt and Israel to provide them with nuclear power for the generation of electricity. These are not every day sorts of agreements. While we have agreements of this kind with other countries, the exporting of fissionable materials is obviously of greater danger and significance than the average commercial relationship we have with most countries.

For both these reasons—because of the important changes in our foreign policy and because of the complexity and danger involved in providing nuclear power to other nations—I feel it is essential that the Congress play a role in the enactment of these agreements.

I am introducing today an amendment to the foreign assistance bill submitted by the administration authorizing aid to the Middle East. My amendment will require that agreements made with governments in the Middle East for the provision of fissionable materials be submitted to the Senate as treaties for Senate ratification. It will also require consultation with specified Members of both Houses of Congress before final decisions and announcements are made regarding the use of the $100 million "special requirement fund" for the Middle East.

Mr. President, in my view there can be no doubt but what the Congress must play more than a passive role in the determination of the advisability of providing nuclear power to other nations. There is increasing concern now about the ability to control the whereabouts and usage of nuclear materials and in an area as volatile as the Middle East this can not help but be a major concern. Such an issue bears more public discussion and scrutiny than has been the case with the agreements with Egypt and Israel.

The "Principles of Relations and Cooperation between Egypt and the United States" were signed by President Nixon and President Sadat last Friday, June 14. The agreement on the provision of nuclear material to Egypt, we are told, must be signed by the Sunday after next, June 30, to meet the Egyptians production requirements. The agreement on safeguards is to be worked out afterward. Even though the agreement on the provision of the material is subject to the agreement on safeguards, there is reason to be concerned about the details of both agreements and their foreign policy implications. The only way we are going to get a full public debate, discussion, and decision on these issues is for agreements of this sort to be submitted to the Senate as treaties for ratification.

In the President's aid request for the Middle East he also asked the Congress to authorize a $100 million "special requirements fund" which would be at his discretion and decision to determine to whom and for what this money would be used. As written, it would allow the money to be at the President's disposal until expended, which could be years from now. This kind of blank check is precisely the kind of request the Congress should not comply with. Unless it is fully consulted with in advance, the Congress is giving up power of the purse and is dealing itself out of the decision-making process on the use of taxpayers funds which is the primary responsibility of the Congress.

As the United States reshapes its relations with the Middle East, the Congress must play a key role. These amendments would assure that the authority and responsibility of the Congress would be exercised.

I ask unanimous consent to have the amendment printed in the RECORD following my remarks.

I am pleased to be able to say that the distinguished chairman of the Foreign Operations Subcommittee of Appropriations, the Senator from Hawaii (Mr. INOUYE) and the Senator from Maryland (Mr. MATHIAS) are joining me in cosponsoring this legislation.

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

AMENDMENT NO. 1510

On page 2, line 24, insert the following:

No funds shall be authorized and no authority shall be exercised under this or any other Act for the purpose of providing fissionable material to nations in the Middle East until the agreements drafting the terms of such provision have been submitted to the Senate as treaties and have been ratified by the Senate.

Sec. 904(a) page 3, line 17 strike remainder of paragraph after the word "purposes" and insert the following:

No funds authorized to be appropriated by this section shall be available for use by the President unless the Congress is consulted on the possible uses of these funds prior to any agreement or final decision being reached and announced. Such consultation shall include the majority and minority leadership of both houses of Congress, the Chairman of the Joint Committee on Atomic Energy, and the Chairman of the Foreign Affairs and Appropriations Committees of both houses of Congress, including the Chairmen of the Foreign Operations Subcommittees of Appropriations.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1108

At the request of Mr. INOUYE, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 1108 intended to be proposed to S. 2923, to amend chapter 55 of title 10, United States Code, to require the Armed Forces to continue to provide certain special educational services to handicapped dependents of members serving on active duty.

ANNOUNCEMENT OF ADDITIONAL HEARINGS ON SENATE JOINT RESOLUTION 119 AND SENATE JOINT RESOLUTION 130

Mr. BAYH. Mr. President, the Senate Subcommittee on Constitutional Amendments is scheduling further hearings on two proposed amendments to the Constitution: Senate Joint Resolution 119, for the protection of unborn children and other persons, and Senate Joint Resolution 130, to guarantee the right of life to the unborn, the ill, the aged, or the incapacitated.

The next day of hearings will be held on Wednesday, June 26 in room 1318, Dirksen Senate Office Building, beginning at 2 p.m.

Any persons wishing to submit written statements for the hearing record should contact the Subcommittee on Constitutional Amendments, room 300, Russell Senate Office Building, Washington, D.C. 20510.

ANNOUNCEMENT OF HEARINGS ON BARRIERS TO HEALTH CARE FOR OLDER AMERICANS

Mr. MUSKIE. Mr. President, I would like to announce hearings to be con-

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Approved For Release 2005/07/20 : CIA-RDP79-00957A000100040080-8

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Foreign profits of the multinational oil companies are increasing faster than their domestic profits—doubling in the last year to well over $7 billion. Yet under the House bill, domestic oil producers will pay an extra $11.4 billion in higher taxes between 1974 and 1979, compared to $1 to $1.5 billion which will be levied on foreign oil operations. When we factor in the ratio of foreign to domestic oil operations of the American companies, these figures mean that the House tax package imposes new taxes on domestic oil operations twice as great as those imposed on foreign oil operations.

Mr. President, I support Project Independence, but I wonder whether we will ever have energy independence in this country if we continue to subsidize investment in foreign countries at the expense of investment here at home. To formulate a tax package which will not give oil companies so much incentive to invest abroad, there must be some sort of minimum U.S. taxation of the foreign earnings of U.S. oil companies—earnings on which they presently pay little or no U.S. taxes at all.

A flat 10-percent minimum tax on net foreign earnings of the U.S. oil companies—including earnings of the foreign incorporated subsidiaries of these companies—would be an appropriate minimum tax. This would raise additional revenue of approximately $700 million for the Treasury, and would make the tax package more neutral as between foreign and domestic source income.

Currently U.S. manufacturing companies pay, on the average, 25 percent of their foreign earnings to the United States in income taxes. This rate of taxation may be too low, and I believe that the Congress must, at some point in the near future, reevaluate the entire system of taxation of foreign earnings. These payments, whether or not they are too low on some absolute scale, are substantially higher than those of the international oil companies, which pay practically no U.S. tax on their foreign earnings. This bill will largely correct this disparity.

Besides assuring a high level of domestic investment, and improving tax equality, this bill has another important function. Assuming that some progress is made in this Congress toward limiting the abuses of the foreign tax credit provision, many of the major oil companies may be tempted to move all or part of their overseas earnings completely offshore. In other words they may take them in foreign subsidiaries and do not repatriate them to the United States. This bill would tax income earned by controlled foreign corporations in which the companies in question have ownership interest, whether or not these earnings are remitted to the parent company in the form of dividends.

Basically the purpose of this bill is to impose a flat 10-percent minimum tax on the real economic earnings of each multinational oil company. Since payments made to foreign governments are real costs, these are treated as deductions, but not as credits as under the present system. Since earnings taken in controlled foreign corporations are nevertheless earnings of the parent U.S. corpoartion, these are taxed. There is no intent here to impose double taxation on profits taken in a subsidiary, and then remitted in dividends, and the Secretary is authorized to make regulations to prevent this from happening.

Taken in total, I believe that this bill will make a positive contribution to tax equity and to security in the supply of this Nation's vital energy resources.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1975—AMENDMENT

AMENDMENT NO. 1398

(Ordered to be printed, and to lie on the table.)

Mr. CHILES submitted an amendment intended to be proposed by him, to the bill (S. 3000) to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loans, and for other purposes.

AMENDMENT NO. 1400

(Ordered to be printed.)

Mr. THURMOND proposed an amendment to Senate bill 3000, supra.

AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961—AMENDMENTS

AMENDMENT NO. 1399

(Ordered to be printed, and referred to the Committee on Foreign Relations.)

FOREIGN MILITARY SALES

Mr. NELSON. Mr. President, it is difficult these days to open the newspaper without coming across unexpected reports of another U.S. multimillion-dollar arms deal with another small nation somewhere.

The amendment I am offering today to the Foreign Assistance Act, S. 3394, gives Congress oversight authority on proposed foreign military sales—before the sale is finalized.

Foreign military sales has become a instrument of foreign policy. The executive branch of this Nation involves the United States in military situations throughout the world without congressional and public debate, discussion or deliberation. The sums here are vast. For 1973—the most recent figures available on foreign military sales credit and cash—show a total of $3.5 billion. This figure represents a quadrupling of the fiscal year 1970 total of $926 million. Fiscal year 1974 sales are estimated to be in the neighborhood of $4.6 billion.

Mr. President, I ask unanimous consent to have a DOD chart of foreign military sales orders totaling $21 billion since 1950 entered in the RECORD at the conclusion of my remarks.

Despite the serious policy issues raised by this tremendous increase in Government arms sales, these transactions are made with little regard for congressional or public opinion. The Department of Defense is consulted. The manufacturers of weapons and the providers of military services are consulted. But Congress is hardly informed of these transactions, much less consulted as to their propriety. As it stands now, the executive branch of the Government simply presents Congress and the public with accomplished facts.

This amendment requires the executive branch to afford Congress the opportunity to debate and discuss foreign sales made by the U.S. Government. It requires the President to report to both Houses of Congress his military sales plans when any single sale to any one country amounts to over $25 million or when cumulative sales of over $50 million occur to one country in 1 year. Although this amendment was approved by the Senate last year as part of S. 1443, the Foreign Military Sales and Assistance Act, the amendment, as well as a majority of that bill's provisions, was deleted in the Senate-House conference on foreign assistance legislation. I am reintroducing the amendment because the circumstances which warranted its consideration last year have grown even more serious in the interval.

There is still no statutory requirement to insure that Congress receives up-to-date information on U.S. Government foreign military sales. The various required reports either provide information on last year's sales or provide detailed information on only a small part of total American arms sales abroad. Thus, the report required by section 657 of the Foreign Assistance Act lists only the total amount of U.S. Government sales by country for the past fiscal year. Since government-to-government arms sales do not require an export license, the portion of the section 657 report titled "Export of Arms, Ammunition, and Implements of War," provides past fiscal year data only on commercial sales which are approximately one-eighth of total American arms sales abroad. Similarly, the more current reports on munition lists exports totaling more than $100,000, required under another commercial sales reporting provision sponsored last year by Senator HATHAWAY, contain no data on the majority of U.S. arms sales. These are government-to-government sales in which the U.S. acts as an intermediary between an American munitions firm and a foreign country.

This lack of required reports to Congress, coupled with the traditional secrecy surrounding international arms transactions, frequently results in Congress learning about arms sales only as a result of the diligent efforts of the press. Thus, ironically, the American public learned of the 1973 sales to Persian Gulf countries only after the American media picked up an Agence France-Presse report and pressed the State Department spokesman to officially confirm the fact that we had an agreement in

Approved For Release 2005/07/20 : CIA-RDP79-00957A000100040080-8

Approved For Release 2005/07/20 : CIA-RDP79-00957A000100040080-8

principle to sell Phantoms to Saudia Arabia and that we were negotiating a giant deal for arms to Kuwait.

So, too, the American public learned about negotiations for the sale of jets to Brazil last year from a report originating in Brazil. And just recently the Washington Post correspondent in Quito, Equador—not Washington, D.C.—reported U.S. intentions to resume military sales to Equador after a 3 year ban. Equador, which has been in a tuna war with the United States, resulting in seizure of U.S. tuna boats and explusion of U.S. military mission to Quito, has a long shopping list including 12 T-33 trainer jets, basic infantry equipment, and large quantities of engineering equipment.

Mr. President, I request unanimous consent to have the Washington Post article entered in the record at the conclusion of my remarks.

Congressional reliance on the press for hard data on U.S. Government arms sales abroad, however, is not the most serious deficiency in the decisionmaking system governing such sales. At this time there is no formal procedure by which Congress can participate in determining the merits of these arms deals before they are finalized. Nor is there any way for Congress to exert effective oversight authority and monitor the impact of these deals after they are negotiated.

These foreign military sales constitute major foreign policy decisions involving the United States in military activities without sufficient deliberation. This has gotten us into trouble in the past and could easily do so again.

These matters require serious deliberation by the Congress and should not be left exclusively to the executive branch.

If Congress is serious about reasserting congressional participation in foreign affairs and exercising its full responsibility in the formulation of American foreign policy, reviewing foreign military sales is the best place to start.

When I first introduced this amendment last June, I pointed out the press reports of burgeoning U.S. arms sales to the Persian Gulf nations, including Saudi Arabia, Kuwait, and Iran, and to Latin America. Apparently those sales were only the tip of the iceberg.

A recent article in the Christian Science Monitor—an article based on interviews with officials of the State and Defense Departments—estimates that the size of arms sales to Persian Gulf countries in fiscal year 1975 alone could total $4 to $5 billion. These prospective sales deserve particular attention in the light of heavy U.S. sales in the past 2 years. In fiscal year 1973 Iran contracted to buy $2 billion worth of U.S. military equipment. A January 1974 New York Times report indicated that Iran had ordered 30 F-14A fighters at a total cost of $900 million and was reportedly negotiating to buy 50 F-15's. Similarly, Saudia Arabia, which last year ordered a total of between 150 to 200 F-5 fighters, signed a $355 million agreement in April for the modernization of the Saudi National Guard. The agreement includes the purchase of American armored vehicles, antitank weapons, and artillery batteries. Possible future sales in the Persian Gulf are reported to include the Hawk missile defense system and various naval craft ranging from coastal ships to destroyers.

On the basis of its interviews, the Christian Science Monitor article emphasizes that both the regional and the East-West implications of these continuing large weapons sales is beginning to worry some Government officials.

Mr. President, I ask unanimous consent to have the Christian Science Monitor and the New York Times articles entered in the RECORD at the conclusion of my remarks.

Former Secretary of Defense Melvin Laird has publicly echoed this concern in the introduction to an American Enterprise Institute study titled "Arms in the Persian Gulf." Mr. Laird suggests that while providing armaments to third world countries might be a postive short-term measure, it should be accompanied by diplomatic activity so that weapons sales do not become a standard long-term U.S. policy. He also raises important questions about the implications of such sales for future peace and accommodation in the region. These are certainly real issues—issues that deserve to be debated by both Congress and the executive branch.

Similar questions might well be raised about recent and potential sales of jet aircraft to Latin American countries. In 1973 the administration authorized sales of F-5E international fighters to Argentina, Brazil, Chile, Colombia, and Venezuela, ending in one sweep a 5-year ban on the sale of sophisticated military equipment to underdeveloped countries. As of December 1973, Brazil had ordered 42 aircraft. Potential orders from Chile, Peru and Venezuela could total 90 aircraft. At a cost of $2.5 million per plane, jet aircraft sales in Latin America could amount to $300 to $400 million over the next few years. And, as previously noted, the United States plans to sell arms to Ecuador as a result of the truce in the 3-year tuna war with the United States.

Perhaps these transactions—in the Persian Gulf, in Latin America, anywhere—have merit. Perhaps they do not. Without debating the merits of these sales, it seems to me that they represent such a qualitative change in our involvement in the Persian Gulf area and such a significant turn in our Latin American relations, that Congress must be afforded the opportunity to deliberate on these matters as well as on all other significant sales agreements entered into by the U.S. Government.

That is exactly the purpose of this amendment. It would give Congress the opportunity to consider—and if necessary, reject—foreign military sales according to prescribed conditions.

The proposal requires the President to report to both Houses of Congress his military sales plans when any single deal for cash or credit to any one country amounts to over $25 million. If, after 30 days from the time the President makes his report, neither House objects, the sale will be permitted. Agreements with one country with a cumulative value of over $50 million in 1 year will similarly be subject to this procedure for congressional deliberation. Additional single sales of $25 million or more to such countries will also be subject to review. In an emergency situation, the President may waive the requirement for congressional deliberation for 30 days. However, if he wishes to continue arms shipments after those 30 days, he must at the same time file a report concerning those future arms transactions.

The enactment of this provision should place no significant administrative burden on the executive branch. Neither Congress nor the executive branch will be inundated in paper work as a result of the adoption of this amendment. A Library of Congress memorandum written at my request concludes that the total number of reports that would have been submitted for congressional consideration in fiscal year 1973 had the Nelson amendment been in effect is approximately 30. Mr. President, I ask unanimous consent to have entered in the RECORD the Library of Congress memorandum at the end of my remarks.

Nor should the 30-day congressional review period prior to consumation of sale provide any serious interference with normal procedures. Under normal circumstances the negotiation of a sales agreement can take months and the delivery period for such purchases may extend over a period of several years.

A purchasing country's decision to buy U.S.-produced military equipment is made primarily on the basis of the high technical quality of American weapons and only secondarily on the basis of the price and delivery schedule. Iran, for example, negotiated the purchase of F-14's for more than a year and reportedly paid more than double the price that the U.S. Navy paid for the same plane. Their delivery is not expected to be completed before 1977. A thirty day congressional review period, therefore, would not have caused any significant delay nor lost the sale.

And in an emergency situation, the amendment provides a special waiver to cover circumstances such as occurred during the October conflict in the Middle East.

The legislative approach used in this amendment has several important historical precedents. The Reorganization Act—chapter 9 of title 5, United States Code—uses this procedure for congressional approval of reorganization plans of the executive branch. Congressional approval of Presidential plans to increase pay for executive level employees, Members of Congress, the Supreme Court, and the Cabinet is similarly provided for in title 2, United States Code, section 359. When the President sends Congress an alternative pay plan for Federal employees, the Reorganization Act concept is also embodied in that legislation, title 5, United States Code, section 5305. And the Administration Trade Reform Act which has passed the House of Representatives and is pending in the Senate uses the congressional veto procedure in a number of instances.

I request that a study on the constitutionality of the legislative veto embodied

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in the Nelson amendment prepared at my request by the Congressional Research Service, be printed at the conclusion of my remarks. That study finds that—

The proposed amendment is constitutional. It closely parallels the analogous provisions of the Executive Reorganization Act, the constitutionality of which has not been challenged by the Executive Branch. Moreover, the amendment would serve a useful function in assuring that the Congressional policy origination power is not abdicated to the Executive Branch.

In closing, let me reemphasize the importance of these foreign military sales. The Defense Department estimates that U.S. Government arms sales could total $4.6 billion in fiscal year 1974. Arms sales to the Persian Gulf area alone in fiscal year 1975 could total $4 to $5 billion. This Government—including both Congress and the executive branch—have the responsibility to its own citizens and to the international community to give very careful consideration to weapons sales of such magnitude. This amendment would provide both the essential information and the necessary procedure for congressional review.

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

FOREIGN MILITARY SALES ORDERS

[Value in thousands of dollars]

	Fiscal years—											
	1950-63	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1950-73
Worldwide	3,738,726	1,401,218	1,261,585	1,579,172	980,03[illegible]	1,177,109	1,348,377	926,343	1,599,979	3,282,431	3,619,368	20,914,340
Argentina	47,525	1,524	1,276	7,295	6,534	14,871	4,013	11,406	14,374	16,795	14,032	139,647
Australia	144,208	134,816	326,155	47,521	114,168	32,879	35,768	61,357	44,361	117,222	18,515	1,076,969
Austria	32,838	2,804	6,212	2,167	2,183	6,041	1,180	1,770	2,189	2,359	2,450	62,192
Belgium	72,106	6,658	7,709	6,310	15,41[illegible]	2,236	9,739	4,458	4,845	5,080	5,660	140,212
Bolivia	736	5	28	132	5	17	3		45	15	19	1,005
Brazil	19,217	60	23,625	223	31,384	4,265	11,493	2,584	21,489	34,567	12,386	166,293
Burma	1,474	31	53	91	1[illegible]	100	46	7	84	281	167	2,448
Canada	592,635	59,330	41,070	71,264	21,822	18,377	16,183	53,500	29,683	38,429	83,793	1,026,686
Chile	12,742	3,524	2,181	1,058	2,560	4,134	1,697	7,738	3,016	6,075	14,896	59,621
China	1,491	625	1,095	5,008	14,662	42,996	37,174	33,638	61,143	81,073	96,109	375,014
Colombia	9,986	195	150	496	[illegible]	56	144	176	2,179	5,514	1,331	20,324
Costa Rica	761	141		(1)						34		935
Cuba	4,510											4,510
Denmark	29,448	1,627	8,206	7,330	9,[illegible]98	9,080	10,378	6,937	15,570	16,276	7,657	121,607
Dominican Republic	1,434	60	115	266	1	(1)			31	16	80	2,003
Ecuador	2,619	34		119	114	1,476	14	20	315	4		4,716
Egypt	355	1	2	(1)								358
El Salvador	874	3	18	35	15	514	6		11	(1)	70	1,546
Ethiopia	663		(1)	30	12	4	7	6		12		734
Finland			(1)	1	1	1	(1)		1	59		63
France	254,590	27,002	11,130	8,911	6,472	7,495	6,289	3,487	6,085	7,826	7,951	347,237
Germany	1,680,792	591,903	313,967	167,589	191,779	163,998	601,236	253,990	186,997	958,024	200,535	5,310,810
Ghana			1	(*)			2	61	(1)			64
Greece	1,104	175	709	472	8,089	15,366	11,283	29,302	25,416	193,406	52,669	337,992
Guatemala	719	261	444	546	1[illegible]3	329	153	464	8,779	2,511	3,727	18,035
Haiti	224											224
Honduras	1,008	2	13	4	6	59				27	418	1,536
Iceland	(1)	14							(1)	436	47	498
India	52,266	12	1,874	389	1,[illegible]38	1,576	167	2,095	856	1,515	(1)	62,738
Indochina	8,542											8,542
Indonesia	622			1	1	24		(1)	18	(1)	148	815
Iran	1,261	24	68,876	124,080	147,916	69,279	255,960	112,664	433,108	521,700	2,054,311	3,789,180
Iraq	665	1,254	10,783	87	[illegible]61		(1)					13,152
Ireland	(1)	(1)				(1)	1	(1)	11	248	197	458
Israel	6,789	332	60,009	72,134	9,[illegible]25	430,822	71,850	45,287	313,480	435,525	183,499	1,629,151
Italy	131,658	62,540	41,563	38,418	21,[illegible]63	101,761	38,259	37,403	27,245	78,205	89,984	668,500
Jamaica	(1)		1	1	3	3	(1)	8	9	3	7	34
Japan	73,549	45,618	15,977	16,742	10,282	20,277	52,294	21,291	11,639	46,593	50,856	365,118
Jordan	828	1,408	41,100	1,627	30,[illegible]37	33,485	13,421	30,655	20,109	18,637	14,740	206,607
Kenya							(1)					(1)
Korea	286				9	1,504	3,368		847	2,362	2,579	10,956
Kuwait			(1)							(1)	53	53
Lebanon	276	55	1	67	2,735	48	60	1,558	492	299	5,634	10,725
Liberia	1,146		77								1,636	2,860
Libya	73	614	52	541	15,524	2,389	1,811	5,447	632	3,125	177	30,385
Luxembourg	558	258	443	457	[illegible]8	1	113	107	93	24	624	2,764
Malaysia	27	3	17	563	509	1,608	1,323	1,838	272	28,547	1,821	36,529
Mali							84	5		48		137
Mexico	8,944	949	573	101	[illegible]62	96	399	13	437	182	1,097	13,592
Morocco		60		6,040	697	12,955	4,631	2,441	2,627	7,179	2,386	39,016
Nepal									11		83	94
Netherlands	40,037	5,460	16,157	24,192	25,206	6,485	5,248	7,618	7,651	17,832	46,476	202,363
New Zealand	3,781	11,676	24,424	5,361	9,101	11,144	30,267	5,499	6,524	3,453	3,264	114,795
Nicaragua	1,995	21	26	10	[illegible]5	105	2	93	797	92	15	3,242
Nigeria	(1)	335		5	10		2			2,244	684	3,281
Norway	5,049	7,477	21,334	12,949	38,[illegible]95	56,855	24,330	9,790	23,409	20,338	17,729	237,954
Pakistan	32,557	774	1,319	1,147	5,571	15,031	22,532	4,854	20,473	449	21,925	126,633
Panama	13	(1)		(1)			3	15	10	20	1,567	1,627
Paraguay	342		34			1		(1)			35	413
Peru	20,777	597	3,727	2,679	3,363	1,661	1,015	2,244	1,492	1,150	6,659	45,363
Philippines	4,213	36	260	137	439	237	454	868	1,107	630	708	9,088
Portugal	4,108	1,115	425	115	497	780	500	1,191	1,461	3,676	558	14,425
Saudi Arabia	86,179	847	8,443	8,652	46,175	4,844	4,096	4,625	96,863	333,388	60,693	654,805
Senegal										6		6
Singapore					1	841	196	2,476	2,089	5,917	7,573	19,090
South Africa	925	2,157	(1)	56	1	1	4	1	1	2	1	3,149
Spain	2,222	2,781	28,857	20,019	122,942	8,647	14,226	25,954	111,304	23,888	49,484	410,326
Sri Lanke	3	(1)	(1)	(1)			1			(1)		4
Sweden	26,688	897	880	449	[illegible]23	8,011	106	324	1,037	1,041	2,449	42,606
Syria					1							1
Switzerland	15,233	31,747	492	1,345	502	25,790	19,980	4,428	581	6,978	8,107	115,284
Thailand	1,219	(1)	12	1	10	10	3,829	21,150	48	17,360	1,970	45,608
Trinidad/Tobago								85				85
Tunisia	2,874		11									2,885
Turkey	240	182	129	804	922	139	2,106	2,480	1,154	5,499	212,801	226,456
United Kingdom	92,169	360,648	154,747	875,136	23,677	16,370	17,523	63,582	46,805	125,993	117,836	1,894,487
Uruguay	2,305	(1)		56	330	30	26	241	2,086	1,683	1,612	8,389
Venezuela	61,181	9,551	10,529	11,833	9,770	1,242	1,177	788	1,607	42,208	23,373	173,260
Vietnam	5						2			2	1,089	1,098
Yugoslavia	9,373	1,168	2	185	577	221	212	44	12	123	717	12,433
Zaire				1,142	166	226	(1)	54	17,490	301	580	19,959
International organizations	123,687	19,826	3,672	24,780	24,519	18,316	9,989	36,224	17,478	37,926	94,119	410,539

[1] Less than $500.

Note: Totals may not add due to rounding.

Source: Department of Defense.

Approved For Release 2005/07/20 : CIA-RDP79-00957A000100040080-8

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[From the Christian Science Monitor, May 9, 1974]

MIDEAST ARMS DEALS DISTURB UNITED STATES: COSTLY WEAPONS FROM WEST, THEIR EFFECT ON ARAB NATIONS, SOVIETS CAUSE CONCERN

(By Dana Adams Schmidt)

WASHINGTON.—The prospect of more multibillion-dollar arms deals with Iran and Saudi Arabia in the 1975 fiscal year—and the arms race such deals may portend—is beginning to worry some officials of the State and Defense Departments.

The outlook, these officials say, is for $3 billion and possibly as much as $4 billion worth of sales to Iran during this period and more than $1 billion worth to Saudi Arabia. Kuwait is, meanwhile, in the market for a several hundred million dollar air defense system.

Privately, American officials are convinced that hundreds of millions of dollars worth of costly weapons sent to these and other countries of the Middle East are bound to end up rusting in warehouses, or more likely, out in the open. These officials point out that it is a great deal easier to buy a piece of military hardware than to train men to use it.

But the thing that worries the officials much more than the waste is the effect these huge programs, combined with additional purchases from France and Britain, are going to have on Iraq and its superpower backer, the Soviet Union. Saudi Arabia, Kuwait, Iran, and Iraq are the principal countries on the shore of the Persian Gulf, all of them oil billionaires.

The rationale for the programs is that, since the British military withdrawal from the gulf at the end of 1967 the countries of the area have themselves begun to fill the power vacuum the British presumably left behind.

But some here believe it is likely that they are in fact getting into a new and major arms race—a race made more complex by the fact that in addition to the East-West implications, Saudi Arabia and Iran are traditional rivals.

Here are some of the sketchy facts on the sales available from company and official sources. (The purchasing countries object to the publication of details of their transactions, and American companies concerned with their own profits and American officials concerned with the United States balance of payments are usually eager to cooperate in withholding the information.)

The $3 billion to $4 billion deals with Iran for the period in question include about $1 billion worth of F-14 jet fighters built by Grumman, together with the extra gear that may be required over a period of three years—spare parts, spare engines, technical equipment, ground support, bombs, missiles and electronic firecontrol equipment.

SELLING AGREEMENT

In addition the Shah probably will be buying McDonnell-Douglas F-15's as these become available. The U.S. already has agreed to sell them.

Other deals with the Iranians which are included in the coming fiscal year (although they may take years longer to complete) include $400 million to $500 million for naval craft, notably two Spruance-class destroyers.

MISSILES INCLUDED

Another item on the Iranian list is reequipment with the latest-model Hawk missiles. These are air-defense missiles said to be the American answer to the Russian SA-6 which proved so effective against the Israelis last October.

The size of the coming year's military deals should be appreciated against the background of about $2 billion worth of military sales last year and about $1 billion worth during the preceding years.

The Saudis have not thus far purchased the most expensive American jet fighters, although they were told last fall that the United States was willing to sell them F-4 Phantoms. No answer has been received from Saudi Arabia, and American officials now presume that the Saudis are buying French Mirages.

The biggest item in the coming year will be a $750 million naval expansion program. This includes sizable sums for the bricks and mortar of navalbase development as well as 19 ships ranging in size from coastal craft to frigate.

Most of the rest of the billion-dollar estimate for the year is devoted to modernization and mechanization of the Saudi national guard.

Not included in the estimate for the year is a $360 million agreement recently concluded between the Saudi Government and Raytheon for the modernization of the country's eight-year-old Hawk missile-defense system.

The Kuwaitis, who have definitely opted out of the F-4 market in favor of French Mirages, are engaged in comparing the Hawk with the French crotale and British missile systems.

[From the New York Times, January 18, 1974]

ARMS SALES BOOM IN MIDEAST; UNITED STATES IS THE PRINCIPAL SUPPLIER

PARIS, January 12.—The decision by Iran to order $900-million in American-built fighters is only one sign of the growing business in arms in the Middle-East—a business that is expected to continue booming as coffers of the oil state swell following recent price increases.

Several industrial countries, in particular France, Britain, Italy and Japan, are competing for oil supply contracts with the Middle East producers.

Among the inducements are commitments by the industrial countries to participate in the economic, technological and military development of the producer countries.

The oil states of the Persian Gulf are especially interested in military development, and even though Washington is not competing for oil supplies—or at least not openly—it is the United States that is the principal arms supplier in the region.

ABU DHABI BUYS JETS

But France and Britain are coming up fast. France, for instance, has just sold the tiny emirate of Abu Dhabi 14 Mirage Jets. Abu Dhabi has only 80,000 people and no pilots. The pilots will come from Pakistan.

The producing states justify their demand for military equipment in several ways.

In the first place, many are still run on conservative feudal lines and face constant internal threats from separatists and Palestine guerrillas. So they say they need the arms to maintain internal stability.

To keep control on border conflicts, such as that between Kuwait and Iraq last spring, and to reduce the possibilities of intervention in the region by the major powers are other arguments used to justify the arms build-up.

POSITION OF U.S.

The United States, which has contingents of arms salesmen, technicians and counselors in most of the Middle Eastern states, maintains that its desire is to help the producers resist eventual penetration by the Russians or the Chinese.

While the oil producers have been raising their prices, the cost of arms has also been moving up swiftly.

In fact, from the point of view of Iran, the biggest arms purchaser in the region, the fact that defense goods have moved up so rapidly was one of the elements behind the recent sharp increases in oil prices.

Iran was reportedly interested in the F-14A fighter for some time, but was reluctant to pay the high price, $30-million for each aircraft, demanded by the manufacturer, the Grumman Corporation of Long Island.

That figure, which includes spare parts, is believed to be twice what the United States Navy and Marine Corps have paid for their F-14A fighters.

LEVEL OF SPENDING

With prospects for quadrupled oil revenues this year, Iran presumably now feels able to afford the Grumman price.

Iran's annual military budget has risen recently at a rate of nearly 50 per cent and that of Saudi Arabia by nearly a third.

In the nineteen-fifties Iran's arms buying was less than $10-million a year. By the late nineteen-sixties the figure exceeded $150-million, and it will reach $2-billion a year during the current five-year plan, begun last March.

The French have military contracts with a number of Persian Gulf states. Saudi Arabia, for instance, is buying 38 Mirage III jets, AMX-30 tanks, light automatic machine guns, amphibious equipment, and tactical air-to-air and ground-to-air missiles.

KUWAIT: CONTRACTS SOUGHT

French and American arms salesmen are now fighting for new contracts in Kuwait. The French are proposing Mirage jets for the Kuwaiti air force, while the United States is offering F-5's or F-4's.

Although Britain's influence in the region is on the wane, the British were able to get an important contract with Saudi Arabia last year, representing deliveries of $600-million of arms purchases, mainly aeronautical equipment, over five years.

Britain has sold naval equipment to several of the emirates, and some aircraft and antisubmarine helicopters to Iran.

But the United States is by far the biggest supplier to the two principal arms purchasers in the region, Iran and Saudi Arabia.

[From the Washington Post, May 21, 1974]

UNITED STATES REVIVING ARMS SALES TO ECUADOR AFTER CUTOFF

(By Terri Shaw)

QUITO, ECUADOR.—As part of U.S. Secretary of State Henry A. Kissinger's drive to improve relations with Latin America, the United States reportedly is about to resume some military sales to Ecuador after a three-year ban.

Informed sources here said that Ecuador's military government had presented a long list of military equipment it wants from the United States, including 12 T-33 trainer jets, basic infantry equipment and large quantities of engineering equipment.

The sources said the United States is also planning to invite Ecuadorean officers to attend training programs in the Panama Canal Zone.

Resumption of military weapons sales, which were cut off in January, 1971, during a dispute over Ecuador's seizure of American fishing boats, appeared to be part of a general warming of relations between Washington and the two-year-old military government that rules this small country on the west coast of South America.

U.S. officials reportedly hope that an improvement in relations will make Ecuador more receptive to U.S. views during Kissinger's periodic meetings with Latin American foreign ministers.

Ecuador will receive no U.S. government credits for the weapons, because the country has recently begun exporting oil and has enough hard currency to buy the arms on standard commercial terms, the sources said.

Having money to buy modern weapons is new for Ecuador, for many years one of the poorest Latin-American countries. The military government, which seized power in February 1972, has pledged to spend most of its

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oil reserves on economic development, and some Ecuadoreans question the wisdom of the arms purchases while there is still hunger and widespread poverty, especially in the countryside.

Most of the equipment used by the 56,000-man armed forces is of World War II vintage. Military aircraft visible at Quito's airport, high in the Andes mountains, include several C-47 transports, a Constellation and a Flying Boxcar. The military government recently purchased 41 new tanks from France and sent a mission to Moscow to discuss possible arms purchases.

A factor in Ecuador's quest for new arms is fear neighboring Peru, which in 1942 occupied a large chunk of Ecuadorean jungle at the headwaters of the Amazon River. While the two countries now have good relations, Ecuador has not given up its ambitions as an "Amazonian country." Peruvian oil exploration in the area has fed rumors of military incursions and even of skirmishes between forces of the two countries.

Lifting of the U.S. ban on military aid followed a discreet exchange of "smoke signals" between Quito and Washington, informed sources said.

While the United States quietly eased some of the restrictions placed by Congress on aid to Ecuador after the seizures of U.S. tuna boats, the Ecuadoreans reportedly moderated their criticisms of American "economic coercion" in international forums like the United Nations and the Organization of American States.

There was also a letup in the "Tuna War," which began in 1962 when Chile, Peru and Ecuador declared a 200-mile territorial limit and required boats fishing within 200 miles off their coasts to purchase licenses.

The military government has decreed a new fishing law which informed sources said could open the way to joint ventures by Ecuadorean and U.S. interests. The U.S. embassy is expected to mediate between the Ecuadorean government and the U.S. fishing companies in San Diego in an attempt to work out an agreement under the new law.

The truce in the "Tuna War" prompted President Nixon's formal lifting of the sales ban in January.

Resumption of military sales and training is not expected to bring back a large U.S. military mission to Quito. The last one was expelled in 1971 following the cutoff of the arms sales program. Ambassador Robert C. Brewster is expected to enlarge his staff of military attaches to handle the paper work involved in the training program and weapons sales.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., May 29, 1974.

To: Hon. Gaylord Nelson; Attention: Paula Stern.
From: Allan W. Farlow, National Defense Specialist.
Via: Chief, Foreign Affairs Division.
Subject: Report Required under the Proposed Nelson Amendment.

This memorandum responds to your recent request for answers to the following questions:

1. How many individual sales of U.S. arms to other countries involving an amount of $25 million or more were made by the United States government in FY 1973?

Answer: According to the Office of the Comptroller, Defense Security Assistance Agency, Department of Defense there were nineteen such sales.

2. How many instances of total sales of U.S. arms to a single country by the U.S. government of $50 million or more during FY 1973 were there?

Answer: There were eleven such instances.

3. How many individual sales of U.S. arms of $25 million or more to countries which had previously purchased an accumulation of $50 million from the U.S. government were made during FY 1973 (Do not include individual sales reported in the answers to question number 1 above)?

Answer: None not included in the nineteen reported in the answer to question number 1.

In summary, during FY 1973, based on the information furnished by the Office of the Comptroller, Defense Security Assistance Agency, in response to the above questions, there were a total of not more than 30 sales incidents during FY 1973 which would have required reports by the executive branch to the House of Representatives and the Senate under the provisions of the proposed Nelson Amendment.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C. September 4, 1973.

To: Hon. Gaylord Nelson; Attention: Paula Stern.
From: American Law Division.
Subject: Constitutionality of the Legislative Veto Amendment to the Foreign Military Sales and Assistance Act.

This memorandum is in response to your request of July 30, 1973, for material on the constitutionality of the legislative veto.

Amendment No. 253 to S. 1443, the proposed Foreign Military Sales and Assistance Act, requires Congressional approval of any foreign military sale exceeding 25 million dollars, or sales to any country exceeding 50 million dollars for a fiscal year. The amendment permits either House of the Congress to disapprove a sale or increase in assistance by means of a simple resolution within thirty days of the report to the Congress of the proposed transaction. See 119 Cong. Rec. S. 11930 (daily ed. June 25, 1973).

Our analysis of the problem persuades us that the proposed amendment is constitutional. Perhaps, the best way to demonstrate this is to examine the historical background of the legislative veto as it developed in the Executive Reorganization Acts. We will begin by defining the terms commonly used in this area.

DEFINITIONS

A. *Congressional veto* The term "congressional veto" is a generic term covering a variety of statutory devices which enable one or both Houses of the Congress, or one or more committees of the Congress, to preclude the Executive from final implementation of a proposed action authorized by law. This definition includes only those measures which legally compel the Executive to forego the proposed action. It excludes many provisions that are often described as Congressional legislative or committee vetoes, but which do not legally preclude Executive action if Committee approval is not forthcoming.

B. *Legislative veto.* A legislative veto is a provision in a statute that requires the President or an Executive agency to submit actions proposed to be taken pursuant to statutory authority to the Congress at a specified interval, usually 30 to 60 days, before they become effective. The action becomes effective at the close of the interval 1) if the Congress fails to express its disapproval, or 2) in a few cases, if the Congress expresses its approval. If the disapproval or approval takes the form of a concurrent resolution by both Houses of the Congress, the measure can be termed a "two-House" legislative veto. If the disapproval takes the form of a simple resolution by either House, then the device is a "one-House" legislative veto.

Neither a concurrent resolution nor a simple resolution is presented to the President for his signature. Thus, neither form of approval or disapproval is subject to veto by the President. In this memorandum, the term legislative veto does not include measures which require the Congressional disapproval to take the form of legislation enacted by both Houses and signed by the President (or passed over his veto).

C. *Committee veto.* The committee veto includes several types of statutes. Among these are provisions which require an Executive agency to submit a report of a proposed action to one or more committees of the Congress at a stated interval, usually 30 to 60 days, prior to its effective date. During the interval, the action may be blocked by a resolution of disapproval by any of the committees. In some instances, the action does not become effective until all designated committees pass resolutions of approval. Finally, some committee veto provisions do not specify an interval, but rather provide that the Executive agency must "come into agreement" with the responsible committees before it may take the proposed action.

D. *Reporting Provisions.* The term "reporting provision" refers to those statutes which provide that a proposed action by the Executive branch shall not take place until the expiration of a specified time, usually 30 to 60 days, after the proposed action has been reported to the two Houses of the Congress or to designated committees of the Congress.

This type of statute is often referred to as a waiting period, a report-and-wait,, or a laying-on-the-table provision. In some cases, the waiting period may be waived in whole or in part by resolutions of approval by the designated Houses or committees. Some of these laws do not specify the waiting period, but simply provide that no action may be taken until after there has been "full consultation" with the designated committee.

During the waiting period, the responsible committees have an opportunity to review the proposed action and make their approval or disapproval known to the agency. The agency, however, is not legally bound by a committee's resolution of disapproval. It may go forward with the proposed action unless the disapproval takes the form of enacted legislation.

The practical effect of most reporting provisions may be the same as that of a committee veto, because most agencies are usually reluctant to take an action that is clearly contrary to the wishes of its oversight Congressional committee. For this reason, reporting provisions are frequently lumped together with true legislative or committee vetoes in discussions of the general topic. See Harris, *Congressional Control of Administration* 204-48 (1962). From a constitutional viewpoint, however, there is a major distinction between the two types of legislation.

Many of the statutory provisions commonly referred to as committee vetoes or Congressional vetoes are actually reporting provisions. Twelve of the 19 veto provisions compiled by this Division in 1967 were reporting requirements. See Small, *The Committee Veto: Its Current Use and Appraisals of Its Validity* (Legislative Reference Service, Jan. 16, 1967). Twenty-two of the 39 provisions compiled by the American Law Division in January 1973 were reporting provisions.

See Williams, *Federal Statute Citations Which Give Congressional Veto Over the Power of the Executive Relating to Disposal of Federal Property or Interest* (American Law Division, January 15, 1973).

PARALLEL PROVISIONS

There are numerous other statutes which also contain "one-House" legislative vetoes. See, for example, 22 U.S. Code sec. 2587, dealing with transfer of functions to the Arms Control and Disarmament Agency; 50 U.S. Code App. sec. 194g, dealing with sales of military rubber plants; and 8 U.S. Code sec. 1254, governing the suspension of deportation proceedings for aliens by the Attorney Gen-

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eral. Because the legislative veto originated in the Reorganization Acts, this memorandum will concentrate on the legislative background of that Act. It would appear clear that if the legislative veto feature of the Executive Reorganization Act is constitutional, then the similar provisions in analogous statutes are also constitutional.

LEGISLATIVE HISTORY: ACTS OF 1932 AND 1933

The legislative history of the provision for disapproval of reorganization plans by either House of the Congress extends back to 1932. The Economy Act of 1932 gave President Hoover the authority to consolidate, redistribute, and transfer various Government agencies and functions by Executive Order. The Act provided that each order should be transmitted to Congress in session, and should not become effective until 60 days thereafter. The Act also provided that "if either branch of Congress within such 60 calendar days shall pass a resolution disapproving such Executive order or any part thereof, such Executive order shall become null and void to the extent of such disapproval." 47 Stat. 414 (1932).

In an opinion dealing with the propriety in an urgent deficiency bill of a provision authorizing a joint committee of Congress to make the final decision as to whether refunds over $20,000 shall be made and to fix the amount thereof, Attorney General William D. Mitchell cast doubt on the one-House disapproval mechanism.

"It must be assumed that the functions of the President under this act were executive in their nature or they could not have been constitutionally conferred upon him, and so there was set up a method by which one house of Congress might disapprove Executive action. No one would question the power of Congress to provide for delay in the execution of such an administrative order, or its power to withdraw the authority to make the order, provided the withdrawal takes the form of legislation. The attempt to give to either House of Congress, by action which is not legislation, power to disapprove administrative acts, raises a grave question as to the validity of the entire provision in the Act of June 30, 1932 for Executive reorganization of governmental functions." 37 Op. Atty. Gen. 64–65 (1933).

Largely as a result of the Attorney General's criticism, Congress replaced the one-House disapproval provision in 1933 with a "waiting period" provision. This latter provided than an order because effective after 60 days, unless Congress provided otherwise by statute; this disapproval, in turn, was subject to being vetoed by the President. Act of March 3, 1933, Sec. 407, 47 Stat. 1519. The Congress appears to have countered the objection to its disapproval power by limiting the Act's duration to two years. Accordingly, it expired in 1935. The next Reorganization Act was not enacted until 1939.

THE 1939 ACT

The Reorganization Act of 1939 granted reorganization authority to President Roosevelt for a two year period. The Act provided that the Presidential reorganization proposals were to be embodied in "plans", not in Executive "orders". Each plan would become effective 60 days after its transmittal to the Congress, unless it was disapproved in its entirety by a *concurrent* resolution of *both* Houses of the Congress. Such a concurrent resolution was not subject to Presidential veto

The House Committee which reported the bill proceeded on the constitutional theory that the power conferred upon the President by the Act was legislative in character; because of this, it seemed inaccurate to provide that his action take the form of an Executive order, as did the 1933 Act. The Committee reasoned that the power was neither "executive" in a true sense, or an "order", for the reorganizations would take place not as a consequence of the President's order, but as a consequence of the happening of the contingencies set forth in the Act. The Committee stated:

"The failure of Congress to pass such a concurrent resolution is the contingency upon which the reorganizations take effect. Their taking effect is not because the President orders them. That the taking effect of action legislative in character may be made dependent upon conditions or contingencies is well recognized." House Report No. 120, 76th Cong., 1st Sess. 4–5 (1939).

The Committee relied on the then recent Supreme Court decision in *Currin* v. *Wallace*, 306 U.S. 1 (1939), which upheld the validity of a referendum of farmers which determined whether the Secretary of Agriculture could exercise the authority given him by the statute. The Committee concluded that it seemed "difficult to believe that the effectiveness of action legislative in character may be conditioned upon a vote of farmers but may not be conditioned on a vote of the two legislative bodies of the Congress." House Report No. 120, 76th Cong., 1st Sess. 6 (1939). See also *United States* v. *Rock Royal Cooperative, Inc.*, 307 U.S. 533 (1939) (agricultural marketing statute); *Marshall Field & Co.* v. *Clark*, 143 U.S. 649 (1892) (finding of fact by executive officer under Tariff Act); *J.W. Hampton, Jr. & Co.* v. *United States*, 276 U.S. 394 (1928). The Supreme Court has stated that the Congress may fulfill "the essentials of the legislative function" by authorizing "a statutory command to become operative upon ascertainment of a basic condition of fact by a designated representative of the government." *Hirabayashi* v. *United States*, 320 U.S. 81, 104 (1943).

THE 1945 ACT

In 1945, a Report of the Senate Committee on the Judiciary recommended a veto by *either* House.

The Committee reasoned that the Reorganization Act delegates part of the legislative power of the Congress to the President; when subject to a one-House veto, such a delegation does not operate to deprive either House of its constitutional right not to have any change made in the law without the assent of at least a majority of its members; either House, after seeing precisely how the President proposes to exercise the general power delegated effectively to him would have its own independent right to veto the Presidential action and thus to retain the essential authority vested in it by the Constitution. Senate Report No. 638, 79th Cong., 1st Sess. at 3 (1945). The Senate, however, restored the veto by concurrent resolution, after a discussion of the constitutionality of the one-House veto. See 95 Cong. Rec. 10269–74, 10714 (1945).

THE 1949 ACT

The one-House veto was first enacted in its present form in 1949. The specific provision originated in the proposed Senate bill. The Senate Committee on Expenditures in the Executive Departments (now the Committee on Government Operations) requested the Justice Department's current views of the constitutional issues raised earlier by Attorney General Mitchell in 1933.

The Department responded, first, that Mitchell's statement concerning the 1932 Act was *obiter dictum*, (that is, not essential to the central matter being decided and, hence not binding), because his opinion was concerned only with the constitutionality of proposed legislation affecting tax funds. Secondly, the Department stated that Mitchell's opinion was based on the unsound premise that the Congress, in disapproving a plan, is exercising a legislative function in a nonlegislative manner. The memorandum continued:

"But the Congress exercises its full legislative power when it passes a statute authorizing the President to reorganize the executive branch of the Government by means of reorganization plans. At that point the Congress decides what the policy shall be and lays down the statutory standards and limitations which shall be the framework of Executive action under the Reorganization Act. If the legislation stops there, with no provision for future reference to the Congress, the President's authority to reorganize the Government is complete. Indeed, such authority was given in full to President Roosevelt in the Reorganization Act of 1933 (47 Stat. 1517).

"The pattern of the 1939 and 1945 Reorganization Acts has been to give the reorganization authority to the President, and then provide machinery whereby the Congress may approve or disapprove the plans proposed by the President. Nor is it, in the circumstances, an improper legislative encroachment upon the Executive in the performance of functions delegated to him by the Congress. As indicated above, the authority given to the President to reorganize the Government is legally and adequately vested in the President when the Congress takes the initial step of passing a reorganization act.

"The question here raised relates to the reservation by the Congress of the right to disapprove action taken by the President under the statutory grant of authority. Such reservations are not unprecedented. There have been a number of occasions on which the Congress has participated in similar fashion in the administration of the laws. An example is to be found in section 19 of the Immigration Act of 1917, as amended (8 U.S.C. 155(c); Public Law 863, 80th Cong.), which requires the Attorney General to report to the Congress cases of suspension of deportation of aliens and which provides further that "if during the session of the Congress at which a case is reported * * * the Congress passes a concurrent resolution stating in substance that it favors the suspension of such deportation, the Attorney General shall cancel the deportation proceedings. * * * If prior to the close of the session of the Congress next following the session at which a case is reported, the Congress does not pass such a concurrent resolution, the Attorney General shall thereupon deport such alien * * *.' The Congress has thus reserved the opportunity to express approval or disapproval of executive actions in a described field.

"Still other examples may be found in the laws relating to the administration by the Secretary of the Navy of the naval petroleum reserves, which require consultation by him with the Armed Services Committees of the Congress before he takes certain types of action, such as entering into certain contracts relating to those reserves, starting condemnation proceedings, etc. (34 U.S.C. 524); and in the statute which requires the Joint Committee on Printing to give its approval before an executive agency may have certain types of printing work done outside of the Government Printing Office (44 U.S.C. 111).

"It cannot be questioned that the President in carrying out his Executive functions may consult with whom he pleases. The President frequently consults with congressional leaders, for example, on matters of legislative interest—even on matters which may be considered to be strictly within the purview of the Executive, such as those relating to foreign policy. There would appear to be no reason why the Executive may not be given express statutory authority to communicate to the Congress his intention to perform a given Executive function unless the Congress by some stated means indicates its disapproval. The Reorganization Acts of 1939 and 1945 gave recognition to this principle. The

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President, in asking the Congress to pass the instant reorganization bill, is following the pattern established by those acts, namely by taking the position that if the Congress will delegate to him authority to reorganize the Government, he will undertake to submit all reorganization plans to the Congress and to put no such plan into effect if the Congress indicates its disapproval thereof. In this procedure there is no question involved of the Congress taking legislative action beyond its initial passage of the Reorganization Act. Nor is there any question involved of abdication by the Executive of his Executive functions to the Congress. It is merely a case where the Executive and the Congress act in cooperation for the benefit of the entire Government and the Nation.

"For the foregoing reasons, it is not believed that there is constitutional objection to the provision in section 6 of the reorganization bills which permits the Congress by concurrence resolution to express its disapproval of reorganization plans."

Memorandum Re: Constitutionality of Provisions in Proposed Reorganization Bills Now Pending in Congress, reprinted in Senate Report No. 232, 81st Cong.; 1st Sess. 18–20 (1949) (Citations omitted; emphasis added).

Although the conclusion was limited to the use of the concurrent resolution, the underscored portions of the memorandum noted that "disapproval . . . by . . . either House" was not a legislative act and thus not constitutionally objectionable.

On the Report accompanying the Bill, the Senate Committee stated:

"It was determined that the most direct and effective way to eliminate the need for exemptions was to include an amendment providing that a simple resolution of disapproval by either the House or the Senate would be sufficient to reject and disapprove any reorganization plan submitted by the President.

"By reserving to either House the power to disapprove, Congress retains in itself the power to determine whether reorganization plans submitted to the Congress by the President shall become law. The power of disapproval reserved to each House by the bill does not delegate to either House the right to make revisions in the plans, but it will enable each House to prevent any such plan of which it disapproves from becoming law. The power thus reserved to each House seems essentially the same as that possessed by each House in the ordinary legislative process, in which process no new law or change in existing law can be made if either House does not favor it. No significant difference would seem to exist by reason of the fact that under the ordinary legislative process the unwillingness of either House to approve the making of new laws or a change in existing law is manifested by the negative act of refusing to register a favorable vote, whereas under the bill the unwillingness must be manifested by the affirmative act of the passage of a resolution of disapproval of a reorganization plan. The unessential character of this difference becomes even more apparent when regard is had to the stringent rule contained in the bill which makes impossible actions calculated to delay or prevent consideration of resolutions of disapproval which have been favorably reported by the appropriate committee."

Senate Report No. 232, 81st Cong., 1st Sess. (1949).

Since the House version of the bill called for disapproval by concurrent resolution, the bills went to conference:

The Senate conferees stood solidly for retention of the provision for rejection by a simple majority vote of either House, which, had been included in the Senate bill, the conferees agreeing to a considerable broadening of the President's authority compared with previous reorganization acts.

As finally approved in conference, after an impasse which lasted for several weeks, the bill incorporated Senate proopsals granting the President authority to propose the creation of new departments—a power which was not given to him under earlier acts—and eliminated all restrictive and limiting provisions, but incorporated the provision requiring that a reorganization plan submitted under the act would require the adoption of a resolution of disapproval by a majority of the authorized membership of either House. The Senate, in approving the original Senate bill, had made it clear that the granting of these additional powers to the President had been conditioned upon retention of the provision permitting rejection of any plan by a simple majority vote of either House, and the concessions made by the conferees were approved only because they were necessary if any reorganization authority was to be granted to the President.

Senate Report No. 336, 85th Cong., 1st Sess. (1957).

The Act was discussed on the floor of the Senate at 95 Cong. Rec. 7785, 7827 & 7829 (1949) and in the House of Representatives at 95 Cong. Rec. 7838–39 & 7444–46 (1949). For an extensive discussion and analysis of the legislative history of the legislative veto provisions of the Reorganization Acts from 1932 to 1949, see *Ginnane, The Control of Federal Administration by Congressional Resolutions and Committees*, 66 Harv. L. Rev. 569 (1953).

In 1957, the Act was amended to permit disapproval by a simple majority of either House, rather than by majority of the authorized membership of either House, Public Law 85–286, 71 Stat. 611 (1957). In 1964, the President's power to create new Cabinet Executive Departments was eliminated from the Act, Public Law 88–351, 78 Stat. 240 (1964).

CONSTITUTIONALITY OF THE ONE-HOUSE VETO

As the foregoing legislative history suggests, the constitutionality of the one-House legislation veto mechanism embodied in the Reorganization Act of 1949 and in other statutes is virtually universally accepted. Although occasional arguments in opposition have been raised during floor debates, they have been resolved in favor of the constitutionality of the provisions, either expressly or implicitly, by all concerned legislative committees from 1945 to the present; by the Justice Department, when its opinion was requested; and by the votes of both Houses of the Congress, which are not inconsiderable since the Act has undergone successive extension in 1953, 1955, 1957, 1961, 1969 and 1971.

Reorganization plans submitted by the President more closely resemble proposed legislation, in form and substance, rather than Presidential actions or Executive orders. Legislation proposed to Congress cannot become law if either House votes "no". The effect of the Reorganization Acts have been similar, that is, no "plan" can become "effective" if either House votes "no". As the Senate Committee remarked in 1949, there is no significant difference between the negative act of refusing to register a favorable vote and the affirmative act of a resolution of disapproval.

As to the question of legislative encroachment on the powers of the President, it should be noted that the President arguably accepts the limitation on his delegated powers when he signs the Reorganization Act itself; he has the alternative of vetoing the Act. The power of legislation, including the power to reorganize the Executive branch, is vested by the Constitution in the Congress, U.S. Constitution, Art. I, Secs. 1 and 8. Congress has no obligation to delegate this power to the President, and the President has no obligation to accept the delegation. As the Justice Department pointed out in 1949, each Reorganization Act is a case of the Executive and the Congress acting in cooperation.

There are no court decisions dealing with the constitutionality of the provisions of the Reorganization Act of 1949 under discussion. However, in *Sibbach* v. *Wilson & Co.*, 312 U.S. 1 (1941), the Supreme Court did consider the validity of the analogous "waiting period" provided for the promulgation of the Federal Rules of Civil Procedure. In its discussion of this provision, the Court stated:

"The value of the reservation of the power to examine proposed rules, laws and regulations before they become effective is well understood by Congress. It is frequently, as here, employed to make sure that the action under the delegation squares with the Congressional purpose. That no adverse action was taken by Congress indicates, at least, that no transgression of legislative policy was found." (Footnotes omitted). 312 U.S. at 15–16.

In support of this position, the Court cited three analogies; a) the organic acts of some of the territories, providing that laws passed by the territorial legislature prior to their admission to statehood would be valid unless Congress disapproved; (b) the provisions of the Act of March 3, 1933, for the laying over of reorganization orders before the Congress, (also known as a "waiting period" provisions); and (c) the Reorganization Act of 1939, which included provision for disapproval by concurrent resolution. (312 U.S. at 15 n. 17).

The holding in the *Sibbach* case does not apply directly to the one-House veto in the 1949 Reorganization Act, because the Court cited only those statutes which required disapproval by both Houses of the Congress. However, the rationale of the case appears to be that the absence of adverse congressional action implies that there is no transgression of legislative policy in a proposed rule, law or regulation. The one-House veto is consistent with this rationale, because it is an accurate method of recording the lack of congressional assent to a proposed change; it is accurate because *either* House can voice its objection readily and independently. In the case of reorganization plans, the failure of either House to register its disapproval is even stronger support for the inference that the plan under consideration does not transgress any legislative policy.

In the case of the proposed Foreign Military Sales and Assistance Act, the legislative veto would enable the Congress to review the proposed military sales and assure itself that it is consistent with Congressional policy.

Therefore, it may be asserted that the legislative veto is neither unconstitutional nor "extra-constitutional". The Act does not allow one House of the Congress to take legislative action binding on the President. It may be persuasively argued that the resolution of disapproval is not a legislative act; that there is no opportunity to amend, alter or delay the proposed plan. Rather, it is merely a reservation to the Congress of the power to examine the exercise of power delegated to the Executive. Congress presumably can be far more generous in amounts of authority which it delegates when the power of review is expressly retained; in the absence of a legislative veto, the Congress usually substitutes other, more stringent limitations on the subject matter and duration of the delegated powers.

Perhaps the best summary of the argument in favor of the legislative veto is contained in Professor Corwin's treatise on the Presidency:

"It is generally agreed that Congress, being free not to delegate power, is free to do so on certain stipulated conditions, as, for example, that the delegation shall terminate by a certain date or on the occurrence of a specified event; the end of a war, for instance. Why, then, should not one condition be that the delegation shall continue only as

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long as the two houses are of opinion that it is working beneficially? Furthermore, if the national legislative authority is free to delegate powers to the President, then why not to the two houses, either jointly or singly? And if the Secretary of Agriculture may be delegated powers the exercise of which is subject to a referendum vote of producers from time to time, as he may be, then why may not the two houses of Congress be similarly authorized to hold a referendum now and then as to the desirability of the President's continuing to exercise certain legislatively delegated powers?

"As we have seen, moreover, it is generally agreed that the maxim that the legislature may not *delegate* its powers signifies at the very least that the legislature may not *abdicate* its powers. Yet how, in view of the scope that legislative delegations take nowadays, is the line between *delegation* and *abdication* to be maintained? Only, I urge, by rendering the delegated powers recoverable without the consent of the delegate; and for this purpose the concurrent resolution seems to be an available mechanism, and the only one. To argue otherwise is to affront common sense."

Corwin, *The President: Office and Powers, 1787–1957* (4th rev. ed. 1957 (Footnotes omitted). (Emphasis in original).

By serving as a limitation on the delegation of powers to the Executive branch, the legislative veto serves to strengthen rather than weaken the traditional separation of powers. Faced with a choice between legislating in excessive detail, on the one hand, and a major abdication of authority to the Executive on the other, the Congressional veto provides a practical middle course. In Corwin's phrase, what better way is there to maintain the line between *delegation* and *abdication* of legislative powers?

CONCLUSION

The legislative veto has become generally accepted on the theory that it is a reservation by the Congress of the power to approve or disapprove the exercise of a delegated power by an official of the Executive branch. This is a power which the Congress reserved to itself in the original law that delegated authority to the official.

In the light of the foregoing analysis, it would appear that the proposed amendment is constitutional. It closely parallels the analogous provisions of the Executive Reorganization Act, the constitutionality of which has not been challenged by the Executive branch. Moreover, the amendment would serve a useful function in assuring that the Congressional policy origination power is not abdicated to the Executive branch.

VINCENT E. TREACY
Legislative Attorney.

DEVELOPMENT OF A FAIR WORLD ECONOMIC SYSTEM—AMENDMENTS

AMENDMENT NO. 1403

(Ordered to be printed, and referred to the Committee on Finance.)

Mr. MONDALE. Mr. President, I am submitting several amendments to the Trade Reform Act of 1973. The proposed amendments are intended to deny tax credits to American firms operating in territories deemed to be, by both the United Nations and the International Court of Justice, under illegal occupation. Therefore, these amendments express American concern over countries where basic human rights are still outrageously flouted and majority rule denied.

My amendments most specifically address themselves to the tragic situation in Namibia, an arid, mineral-rich country located in the southwestern corner of Africa. Namibia suffers a unique international wrong in the unlawful perpetuation of South African rule. This is compounded by the introduction into Namibia of the apartheid system and of the whole apparatus of arbitrary South African police laws and political trials.

It is 8 years since the General Assembly, after other remedies had been exhausted, declared the South African mandate, dating from 1918, at an end, and with it, South Africa's right to govern that territory. It is 3 years since the International Court of Justice's advisory opinion concurring with the United Nations ruling. Yet South Africa remains in defiance of the United Nations.

The United States has continually supported the actions of the United Nations and of the World Court. To date, American action has been, first, to officially discourage investment in Namibia by U.S. nationals; second, to deny Export-Import Bank credit guarantees; third, to deny U.S. government assistance in protection of any U.S. investment there; and fourth, to encourage other nations to follow suit. However, we allow tax credits, for taxes paid to the South African Government, on American investments in Namibia. We, in effect, allow tax credits to a government in places where we don't recognize their authority.

In 1972, 27 U.S. Senators and Representatives wrote a letter to the Secretary of the Treasury expressing concern over the inconsistency between international law and U.S. policy on the one hand, and the Treasury Department's allowance of credit against U.S. tax due to taxes paid by U.S. companies to South Africa on income earned, in Namibia, on the other. In a letter dated May 4, 1973, the Secretary of the Treasury, Mr. Shultz, replied to that letter saying:

> We have concluded that the existing tax credit legislation does not provide discretion to deny the tax credit to United States taxpayers, even though the occupation of the area by South Africa has been determined to be illegal under international law.

I believe that Secretary Shultz's reply was an invitation to the Congress to amend the Internal Revenue Code to disallow the foreign tax credit to U.S. investors in Namibia who are paying taxes to the illegal South African occupiers. Today, we should set the record straight and bring the tax laws into line with U.S. policy, and in total compliance with our international obligations.

There are important U.S. interests at stake in my amendments. Other nations of Africa, strategically important, are seriously concerned over Namibia. Their decisions on major economic and political questions may be affected by our actions on this issue. For example, Nigeria, a country whose government is a vigorous critic of South Africa's illegal administration of Namibia, is a growing supplier of all U.S. oil imports. Moreover, one of the greatest potential areas for oil exploration in the world is in the offshore area of the "western bulge" of Africa. All of the countries in this area are strongly opposed to South Africa's presence in Namibia. Such strategic factors, together with diplomatic and humanitarian considerations, compel our attention and our action on the Namibian issue.

Change is coming in southern Africa. With the recent events in Portugal and the Portuguese colonies, we must not delay in making it clear where the United States stands. This is the purpose of these amendments. I, therefore, believe that they deserve the support of the Congress and of the Government of the United States, for they are in keeping with our policies, our basic values, and our national interests.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 1377

At the request of Mr. HARTKE, the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from California (Mr. CRANSTON), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of amendment No. 1377 to Senate bill 3000, the Department of Defense Appropriations Authorization Act, 1975.

NOTE

As shown in the RECORD of June 5, 1974, at the bottom of the third column on page S9709, the text of amendment No. 1388, submitted by Senator COOK, was not printed. Accordingly, the permanent RECORD will be corrected to read as follows:

I ask unanimous consent that the text of the amendment I submit today and the remarks I made on the introduction of S. 3240 on March 26, 1974, be inserted in the RECORD.

There being no objection, the amendment and remarks were ordered to be printed in the RECORD, as follows:

On page 10, strike everything after line 12, and insert in lieu thereof the following:

(h) TAX ON TELEPHONE BILLS.—

(1) Section 4253 of the Internal Revenue Code of 1954 (relating to exemptions to the tax imposed on communication services) is amended by inserting at the end thereof the following new subsection:

"(i) STATE AND LOCAL TAXES.—No tax shall be imposed under section 4251 on so much of any amount paid for services as is properly attributable to any tax imposed on the amount paid for services, or otherwise imposed on the providing of such services, by a State, or any political subdivision thereof, or the District of Columbia".

(2) The amendments made by this Act shall apply to taxable years beginning after December 31, 1973.

Remarks by Senator COOK on March 26, 1974:

Mr. COOK. Mr. President, on behalf of myself and Senator BAKER, I am pleased to introduce a bill which will amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communications services shall not apply to the amount of the State and local taxes paid for such services. The purpose of this legislation is to stop the Internal Revenue Service from levying a "tax on a tax." At the present time, IRS is requiring the telephone companies of

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