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Mr. PERCY. Mr. President, I know of no objection on this side of the aisle.

Mr. PELL. There is no objection on this side.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2369) was agreed to.

Mr. PROXMIRE. Mr. President, I have one other amendment that I would like to introduce, and then I will be happy to yield to the Senator from Arizona.

Mr. PERCY. Did the distinguished Senator wish to comment on the precious amendment?

Mr. GOLDWATER. Mr. President, I wanted to make an inquiry. Are we still on the Byrd amendment?

Mr. PERCY. We temporarily laid the Byrd amendment aside inasmuch as we completed debate with the Senators present, but it can be brought back. We temporarily laid it aside so that we could take up two or three noncontroversial amendments and then return to the Byrd amendment.

Mr. GOLDWATER. I have a few words to say about the Byrd amendment when my time comes, if I might be allowed to do that.

Mr. PERCY. That would be fine, as soon as we finish the amendment of the Senator from Wisconsin.

The PRESIDING OFFICER. The Chair notes that there is an order for a vote at 11:30 on the Byrd amendment.

Mr. PROXMIRE. Mr. President, it is my understanding that the Byrd amendment has been temporarily laid aside for the purpose of offering one other amendment.

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 2310

(Purpose: To prohibit certain assistance to the Khmer Rouge)

Mr. PROXMIRE. Mr. President, I send a second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an amendment numbered 2310.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the bottom of page 48, add the following:

TITLE VII—GENERAL PROVISIONS
PROHIBITION ON CERTAIN ASSISTANCE TO THE
KHMER ROUGE IN KAMPUCHEA

SEC. 701. (a) Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this Act or any other Act may be obligated or expended for

the purpose, or with the effect, of promoting, sustaining or augmenting, directly or indirectly, the capacity of the Khmer Rouge or any of its members to conduct military or paramilitary operations in Kampuchea or elsewhere in Indochina.

(b)(1) All funds appropriated before the date of enactment of this section which were obligated but not expended for activities having the purpose or effect described in subsection (a) shall be deobligated.

(2) All funds deobligated pursuant to paragraph (1) shall be deposited in the Treasury of the United States, as miscellaneous receipts.

Mr. PROXMIRE. Mr. President, this amendment would bar all U.S. military assistance directly or indirectly to the Cambodian Khmer Rouge—a political-military faction who in the late 1970's pursued the most reprehensible persecution and destruction of a cultural group since the Nazi Holocaust.

The Khmer Rouge, led by Pol Pot, is currently opposing the Vietnamese invasion of Cambodia and their subsequent installation of a puppet government there. A recent Newsweek magazine article alleged that the CIA is helping China to supply the Khmer Rouge force with arms. As a matter of policy, CIA spokesmen will neither confirm nor deny this charge. This Senator has no independent knowledge of the accuracy of the Newsweek charge. But given Pol Pot's past record, it is clearly improper for the United States to support any activities of the Khmer Rouge. Therefore, this amendment would require that any possibly existing support cease, and that no further support be established.

Cambodia, now known as Kampuchea, was ruled for nearly 30 years by Prince Norodom Sihanouk, who tried to keep the Vietnam war outside of his own borders. He was only partially successful. In early 1970, he was deposed by Army Marshal Lon Nol. An ardent anti-Communist, Lon Nol strayed considerably from Sihanouk's neutral posture. The Communist movement known as the Khmer Rouge slowly began to gain strength in opposition to the military government. Then the United States invaded Cambodia. We hoped to help our own cause in Vietnam by cutting off the flow of arms from Communist North Vietnam to the Vietcong rebels in South Vietnam through Cambodia.

Despite the U.S. intention that the invasion was only to protect its own interests in Vietnam and thus not an attempt to embroil Cambodia in the Vietnam conflict, Cambodians viewed it in a negative light. Though he denied it, Lon Nol's tacit support for the invasion further entrenched him in the U.S. camp. The development of the Khmer Rouge opposition accelerated. Pol Pot, leader of the Khmer Rouge, gained considerable strength in both manpower and firepower. By 1975, the United States removed its troops from Southeast Asia. Shortly thereafter, the Lon Nol government was toppled and Pol Pot assumed the reigns of power in Phnom Penh.

The newly established Communist government than began its own brand of reform. What the world witnessed was nothing short of a holocaust.

The record of the Khmer Rouge's 4-year reign of terror is well documented and widely known. I wish to recall briefly a few details of that record. Following their April 1975 take over, the Khmer Rouge troops immediately forced the evacuation of Cambodia's cities, including Phnom Penh with its 2 million residents. Tens of thousands of people, especially the sick and the elderly, died in forced marches. The Khmer Rouge then systematically executed various segments of the population: former national civilian and military officials; lower ranking local government and military personnel; merchants and the educated; teachers, students, and many workers; ethnic and religious minorities. Few groups were left untouched. Many were simply killed; many others died under torture.

At some locations hundreds of individuals were exterminated daily, and mass graves containing the remains of thousands have been discovered. Horror stories abound. Some of the killings seem to make little sense at all. An example:

The story of Tak Mok's guesthouse is a case in point. It is told and retold by everyone from people who work there to the provincial governor. The stately, three-story building, now a government hotel, stands on a small island in a pleasant lake in this provincial capital 50 miles south of Phnom Penh.

Once there was a Buddhist pagoda on the site, but Tak Mok, the local Khmer Rouge commander, had it torn down in 1976 and ordered the guesthouse built. When the first floor was finished, the workers who built it were put to death and their bodies thrown in the lake.

Another crew was brought in and, eventually, those workers too were killed. In all, people here say, 30 to 40 workers died—for what reason, no one seems to know.

We should note, as a postscript to this story, that Tak Mok is still alive and well and chief-of-staff of the Khmer Rouge rebel forces.

Another anecdote of atrocity:

Many children were separated from their families as the Khmer Rouge took them away to work in "mobile teams" far away from their homes. They lived in groups of up to 100 other children and worked "incredibly long hours" said the social worker, who did not want to be named.

"They were forced to dig ditches, build roads and plow fields," she said. Often they were beaten to make them work harder or as punishment for minor offenses. Many died.

These are children we are talking about. Many were orphaned and alone. They were innocent victims of the Khmer Rouge terror, and even if they survived it, the scars would remain forever.

In all, an estimated 1 million Cambodians were systematically executed by the Khmer Rouge under Pol Pot, and approximately 1 million more died of exposure, disease, malnutrition, and

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AMENDMENT NO. 2350

The **PRESIDING OFFICER**. The question recurs on the amendment of the Senator from West Virginia.

Mr. **PERCY**. Mr. President, the amendment by the Senator from West Virginia to the War Powers Resolution of 1973 would conform the procedures under that statute to the holding of the Supreme Court in the Chadha case last summer. It would change the congressional veto procedure in section 5(c) of the War Powers Resolution from a concurrent resolution to a joint resolution and would conform the priority procedures of section 7 of War Powers accordingly.

Mr. President, it has been the intention of the Committee on Foreign Relations to conduct a hearing on this issue, among others, on September 29. That hearing was overtaken by our need to consider the resolution relating to Lebanon under the War Powers Act during that same week. It was our intention to reschedule that hearing either later this year, or early next year.

We may still wish to hold such a hearing to discuss a number of pending proposals for changes in the War Powers Resolution, but this is one change in that resolution which, as the majority leader has already stated today, would command nearly unanimous support in the Congress. I strongly support the amendment of the Senator from West Virginia, and urge my colleagues to do likewise. As he has said, we should not leave in limbo the question of how Congress should proceed if it should decide to oppose any particular involvement of U.S. Armed Forces in hostilities abroad. We should make clear how such a legislative directive would be considered and assure that it would be covered by the expedited procedures appropriate to such a grave exercise of our responsibility under the Constitution.

Mr. President, I am aware that there are some commentators and experts—including the distinguished former Senator from New York, Senator Javits, whom I have consulted on this question—who believe that the reasoning of the Supreme Court in the Chadha decision does not reach the War Powers Resolution. They would argue, therefore, that there is still life in the concurrent resolution veto procedure presently contained in the War Powers Resolution, or in other words, that section 5(c) containing that procedure was not struck down by decision in June.

Mr. President, there may be some merit to this argument as a matter of constitutional law, that the war powers area is distinguishable from other areas of the Constitution. I took that position and I was joined in that position by my distinguished colleague (Mr. **PELL**), the ranking minority member of the Committee on Foreign Relations.

In my view, the practical impact of the Supreme Court decision is to remove the value of that provision of the War Powers Act. The uncertainty which would surround any attempt to exercise that provision of the act, and the strong likelihood that the Supreme Court would extend its holding to include the war powers area also, deprive that procedure of any realistic political strength. Furthermore, Mr. President, I know that there are grave doubts on the part of many Members of the Congress, including myself, about both the wisdom and the constitutionality of this provision. Under most circumstances, it should require an extraordinary majority of the Congress to direct the termination of an ongoing military operation, particularly where it has already been previously authorized under the other procedures of the War Powers Act. That is essentially the position we adopted in section 7 of the recent joint resolution 159 on Lebanon, and I think it is appropriate to amend the War Powers Resolution in this fashion.

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

The **PRESIDING OFFICER** (Mr. **WILSON**). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **PERCY**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. **BYRD**. I ask unanimous consent that the pending Byrd amendment be temporarily set aside.

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

Mr. **PERCY**. There are one or two amendments that will be offered by the distinguished Senator from Wisconsin which I believe are noncontroversial and which can be accepted by both sides.

Mr. **PROXMIRE**. Mr. President, I thank the distinguished chairman of the Foreign Relations Committee.

AMENDMENT NO. 2369

(Purchase: To deny eligibility for appointment to, or employment by, the National Endowment for Democracy to individuals who have engaged in intelligence activities)

Mr. **PROXMIRE**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. **PROXMIRE**) proposes an amendment numbered 2369.

Mr. **PROXMIRE**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill insert a new section as follows:

No individual may be eligible for appointment as an officer of the National Endowment for Democracy, and no individual may be eligible for employment by the Endowment, if such individual has engaged in any intelligence activity since 1963.

Mr. **PROXMIRE**. Mr. President, this amendment is designed for a single purpose. That purpose is to protect the National Endowment for Democracy from unwarranted attack abroad as being an agent of the U.S. intelligence community. If the goals and programs of the Endowment are to be effective internationally, this organization must be free from Soviet propaganda which would picture it as an arm of the CIA or some other Western intelligence organization. Such protection can be provided by legislating that officers and employees of the Endowment be free of any intelligence community relationship for the past 20 years.

We all know that the Soviet Union has a vigorous propaganda organization around the globe. One of their common tools is the charge that some U.S. organization really is a front for the CIA. Now it is impossible to control what the KGB says or does abroad. But we can dilute their effectiveness in making false charges by mandating in our law that the Endowment be free of any intelligence connection.

This has been an effective barrier to false charges for our Peace Corps. The world knows that the Peace Corps is prohibited from recruiting individuals with intelligence backgrounds. Prohibitions are contained in detailed language in Peace Corps literature and regulations. This has given the Peace Corps enormous protection from disruptive claims of intelligence relationships.

We should provide the same protection for the endowment which will be operating abroad under similar circumstances and which will be open to the same propaganda attacks.

My amendment prohibits employment by the endowment, including its officers, to any individual who has engaged in any intelligence activity in the past 20 years. By intelligence activity I mean employment by or close association with any U.S. intelligence organization either here in the United States or abroad. I interpret this language to be broad, inclusive, and without qualification—the purpose being to provide a blanket prohibition rather than to allow specific loopholes.

We cannot stop false charges but we can create the climate in the world for making these charges unbelievable. That would take a great advantage away from our adversaries who will be out to discredit the endowment.

I understand that the managers of the bill are familiar with the amendment and have no objection to it.

The **PRESIDING OFFICER**. Is there objection?

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forced labor. Almost one-third of the Cambodian population was wiped out in a brief 4-year span. Pol Pot's reign witnessed atrocities of a scope unexceeded in modern history, save by Hitler's anti-Semitic Holocaust.

Pol Pot's rule spanned the late 1970's. He soon fell out of favor with his Vietnamese Communist neighbors as well as the Soviet Union, eventually turning toward the Chinese for support. In the name of its own security and its own proclaimed perceptions of the terror fomented by the Khmer Rouge, the Vietnamese invaded Cambodia and deposed Pol Pot and his regime. They proceeded to install their chosen puppet replacement, Heng Samrin, a former colleague of Pol Pot. Thus, in 1979, the Khmer Rouge was out of power, while the Vietnamese were running Cambodia through Samrin.

With Heng Samrin and his Vietnamese sponsors controlling the Government of Cambodia, several rebel factions joined forces and formed an alliance to depose them and return control of Cambodia to the Cambodians. There are three major parties to this confederation; Prince Sihanouk and his neutralist followers; Son Sann and his ardent anti-Communist supporters; and, the remnants of Pol Pot's Khmer Rouge, run by Pol Pot himself and his remaining colleagues. Clearly, these groups are incompatible. They share a common goal—displacement of the Vietnamese—but how they would or could share power is unclear. At present, they remain politically and militarily distinct. The Pol Pot forces have the strongest military capability.

Our sympathy for the Cambodian tragedy might lead us to desire a more active role in this turbulent region. It is unfortunate that the Cambodian people have found their nation occupied and essentially ruled by a foreign power. They have indeed lost their self-determination. Their countryside, once ravaged by a civil war, has been ravaged again by an invading nation. Millions died under Pol Pot and many more are dying under the Vietnamese. Desperate war-weary Cambodians flee the Vietnamese-controlled sectors and stream into refugee camps across the Thai border. The ouster of Pol Pot by the Vietnamese clearly did not bring an end to the suffering.

Which faction should we support in Vietnam? Should a united rebel force regain power, how will power be shared among the competing factions? Would not the Pol Pot forces dominate and ruthlessly remove the others? Is it not dangerous to support Pol Pot in any way?

There may be a group or groups in Cambodia that are worthy of our support, either economically or morally. But, I know one group we should not support under any circumstances—the Khmer Rouge. They claim that they have changed for the better, that the ruthlessness is over. We have no way of knowing this; and, even if they have

indeed changed, they deserve no leadership role in Cambodia. They have wrought enough havoc already. They are mass murderers. They have committed genocide against their own people—killing nearly a third of them. They are ruthless and inhumane. We have a moral obligation to the world and to ourselves not to support the reinstatement of such a ruling class regardless of our opposition to the present Vietnamese-sponsored government and despite the United Nation's persistent recognition of Pol Pot. Even if we wish to aid others in the rebel alliance, we must give the Khmer Rouge nothing. Aiding them directly or, indirectly will only increase their strength within the resistance and make it easier for them to reassert total authority and subjugate the other resistance partners to their wishes. A dialog between the contending factions might provide the basis for an appropriate resolution of the Cambodian quagmire and the suffering that is its product; but, the Khmer Rouge must not be the centerpiece of such a dialog. We may not like the 180,000 Vietnamese troops in Cambodia, but Pol Pot is not an acceptable alternative.

Mr. President, the Khmer Rouge must never again threaten the Cambodian people. And the United States must never support the Khmer Rouge—directly, indirectly, or in any other form.

Mr. President, we have discussed this amendment with the staffs of the managers of the bill, and I am hopeful that they can accept it.

The PRESIDING OFFICER. Is there objection?

Mr. PERCY. Mr. President, I know of no objection on this side.

Mr. PELL. Nor is there any objection, to the best of my knowledge, on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2310) was agreed to.

Mr. PROXMIRE. Mr. President, I once again thank the managers so much for the adoption of the amendment.

The PRESIDING OFFICER. The question now recurs upon the Byrd amendment.

Mr. PERCY. Mr. President, we now return to the Byrd amendment, and I understand that the Senator from Arizona will seek recognition.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Is there a time limit on this amendment, might I inquire of the floor leader?

The PRESIDING OFFICER. There is a vote ordered for 11:30.

Mr. GOLDWATER. The vote will be at 11:30?

The PRESIDING OFFICER. That is correct.

Mr. GOLDWATER. Mr. President, I rise in opposition to the amendment, just as I very vehemently opposed the War Powers Act when it was originally passed. It is unconstitutional. I do not think there is any question of it. Very, very few scholars uphold the idea that it is constitutional, and the Byrd amendment in my opinion is also unconstitutional. Congress does not have the authority to dictate the removal of troops, whether it be by a bill or a joint resolution or a concurrent resolution.

Mr. President, article II, section 2 of the Constitution makes the President "Commander in Chief" and also section 1 of article II gives all the executive power to the President. These provisions enable him to make the determination of war. I emphasize that because I hear so often on the floor of this Chamber and read so often in the CONGRESSIONAL RECORD the statement that Congress has the right to declare war. We do have the right to declare war. We can stand up and declare war every 5 minutes, 24 hours a day, and we cannot send one man to war anywhere in this world. Witness that in the course of the 204- or 205-odd years of our history the President has seen it necessary to call out the troops about 202 times. Now, these were not all for war purposes; they were for purposes of keeping peace here and there, but in all of these times of calling out the troops the Congress has declared war five times, and two of those were in the same war.

Now, I would hope some day to be able to have hearings held on legislation which I am preparing that would repeal the War Powers Act. I think a much better approach to it, if it is the desire of the Congress to have the power to go to war, would be to pass something like the War Powers Act as a constitutional amendment and send it out to the States so the sovereign American people can consider the issue, and, if 38 States ratify it, then it is the people who will decide to take from the President his vested authority to be Commander in Chief and make the determination on covert action or upon war. In fact, there is a vote going to take place in the House sometime today that will decide whether or not this country can engage in covert action, and I might remind my friends in the House that if they vote for this, the only alternative they have is to go to war.

The history of the Congress in the field of war is so miserable that we should not make any further effort to get into it.

Let me briefly recite the history at the end of the Revolutionary War with Great Britain. Members of the Continental Congress were going out in the field making tactical decisions, making promotions here, there, and everywhere, and we nearly lost the war because of the intervention of that Congress. I really believe that

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one of the main reasons for replacing the Articles of Confederation with the Constitution was for the very fact that the Congress had mistakenly injected itself into war. I cannot think of anything worse for this country than 535 people with absolutely no knowledge of the subject and very little knowledge of the subjects surrounding the problems of war and peace making up their minds on the subject of war.

We can stop war. We can stop the funds for weapons systems or cut the number of the Armed Forces. We have never done it in time of war. We have never had the courage to do it.

Mr. President, I do not think this amendment would do anything more than add to the confusion we have already created. We have seen what Congress has done. The first time the War Powers Act was invoked, we agreed to an 18-month extension. Why did we do it? Because the Members of Congress realized that, in the President's judgment, we had to do what we are doing in Lebanon.

I opposed sending any American troops to Lebanon for police purposes, and I told the President that when he did it. I supported the President because he is the man who makes the Executive decision about war.

While I oppose the War Powers Act, I supported the President and his power as Commander in Chief, just as I would support the powers of any man under whom I served, as my commander. I might disagree with him. Nevertheless, we have to learn a little discipline in this world and in the course of our lives.

I do not want to prolong this discussion, Mr. President, because I know the vote is imminent. I think this is another unfortunate, misguided effort to take into the hands of Congress the propagation of war, the tactical operation of war, and to take away from one man the decision as to whether this country will use its military power, its economic power, and its political power in the process of getting our foreign policy understood by the world.

I see nothing but disaster for this country, I see nothing but war ahead for this country, if this matter is left up to the prerogative and judgment of Members of Congress. We are not particularly trained in those fields. We are not particularly notorious for having good judgment in those fields. Day after day, effort after effort is being made to downgrade the powers of our President, whoever he might be. Democrat or Republican—that is beside the point.

Mr. President, I am going to vote against this amendment. I hope some of my colleagues will join me. I hope that someday we can take this matter to the proper courts and see whether or not it agrees with the Constitution.

Mr. President, I ask unanimous consent to have printed in the RECORD an article I wrote recently on this subject

for the Freedom Foundation, entitled "Presidential Defense of Freedom."

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

PRESIDENTIAL DEFENSE OF FREEDOM

(By Barry M. Goldwater)

The stationing of American Marines as a police unit between Druze Moslems and Lebanese Christians in Beirut has revived an issue as old as the United States—who controls the War Powers. By War Powers, I mean the authority to make the fundamental decision when, where, and in what manner to deploy and use the Armed Forces of this country in defense of its citizens and freedoms. It is my belief that the hard-won lessons of the War of Independence instruct us that the President should make these ultimate decisions.

Let us begin with the winter of 1777-78, when General George Washington answered civilian criticism of his army at Valley Forge:

"I can assure these Gentlemen that it is a much easier and less distressing thing to draw remonstrances in a comfortable room by a good fireside than to occupy a cold bleak hill and sleep under frost and Snow without Cloaths, or Blankets * * *"—George Washington to Henry Laurens, president of the Continental Congress, December 23, 1777.

The suffering of Washington's 10,000 troops was caused in great measure by the administrative incompetence of Congress, as were other setbacks to his military operations.

The experience gained from harmful legislative meddling with military decisions during the Revolution led directly to a strengthening of executive power in the Constitution. Fully 30 of the 55 delegates who attended the Constitutional Convention had performed military duty in the War of Independence. These Farmers also had fresh memories of Shays' Rebellion, in which Governor Bowdoin of Massachusetts had singlehandedly raised an army to restore order while a reluctant and divided legislature sat on its hands.

Other dangers were known to the Framers which are mostly forgotten today. Great Britain held onto northern military posts in violation of the Treaty of Paris and excluded us from the St. Lawrence. Spain controlled the mouth of the Mississippi, occupied forts in the Floridas, and schemed to establish a hostile Indian nation between its possessions and the United States. France sought to embroil us as a dependent client in its own foreign conflicts. To these troubles, John Jay warned in the Federalist No. 4, that war might arise out of the rivalry between our nation and European states in navigation and trade "as far away as China and India."

The Framers were practical men. They knew the nation could not survive if its defense was shackled by unrealistic rules. Thus, the President was made the "Commander-in-Chief" and vested with all the "executive power" of the United States.

Congress was given power to "declare war," but the Framers rejected a proposal to allow Congress "to make" war. The difference is significant. Samuel Johnson's "Dictionary of the English Language," current in America at the time of the Constitutional Convention, defines "declare" as "to make known" or "to proclaim." The term "to make" means "to create" or "to bring into any state or condition," a power which was denied to Congress.

Declarations of war have been noted only five times by Congress. Yet a documented

study by my office has turned up more than 200 occasions when Presidents have deployed troops abroad and used force or the threat of force without any declarations of war in defense of the country.

Starting in the 1970's, however, Congress has tried to assert supremacy over military powers. At least 12 different statutes restricted American military activities in Indochina. The end result of these limitations led to genocide in Cambodia, the loss of a neutral Laos, and the disaster in Vietnam. The collapse of South Vietnam signaled a period of Soviet encroachment all over the globe, from Angola, to Ethiopia, to Afghanistan, to Nicaragua.

The War Powers Resolution, enacted over Presidential veto in 1973, heads the list of Congressional intervention in tactical military decisions. The legislation states that American forces cannot be engaged in hostilities for longer than 60 days without specific Congressional authority. An extra 30 days is granted if necessary to remove our troops safely.

My concern is that the War Powers Resolution may cause a constitutional crisis of confrontation between the Congress and President when decisiveness and national unity are needed. Democracies can only avoid disaster if they are willing to confront the obvious threats to their survival while these threats are manageable.

The question is: can a weakened United States, whose President is hamstrung by Congressional restrictions, protect its citizens and freedoms? Rather than leave the matter to a future crisis, it should be resolved immediately. The War Powers Resolution should be repealed and Congress should lay before the people the choice of ratifying or rejecting a Constitutional Amendment placing the control of national defense with the President. Let the people, the ultimate source of sovereignty in America, decide the issue.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I have not discussed this request with the majority leader. I do not believe he would have any objection to it, but if he does, I would certainly not press it.

I do not see any reason for two roll-call votes on this matter. I would be willing, if Senators consent to a unanimous-consent request, to withdraw the yeas and nays on the amendment in the second degree. I say to the majority leader that I would be willing, if I could obtain unanimous consent, to withdraw the yeas and nays on the amendment in the second degree, and we could have a voice vote on that. If it appeared that I would be losing, I would, of course, go back to the yeas and nays.

Mr. BAKER. I thank the minority leader. If that is agreeable to the managers, I commend it to the Senate. I urge the minority leader to make such a request.

Mr. BYRD. So that then the rollcall vote at 11:30 would be on the amendment as amended.

Mr. BAKER. Yes.

Mr. BYRD. With the understanding that if I see I am losing the voice vote—which I do not anticipate—I will renew my request for the yeas and nays.

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Mr. President, I ask unanimous consent that the order for the yeas and nays on the amendment in the second degree be rescinded.

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

The question is on agreeing to the amendment.

Mr. BAKER. Mr. President, the vote has been ordered for 11:30. Is that not so?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I suggest the absence of a quorum.

Mr. BYRD. Mr. President, reserving the right to object, very briefly, I respect the viewpoint expressed by Mr. GOLDWATER. He makes no bones about his position. He is against the War Powers Act, and I respect him for that. I have no quarrel with that at all.

However, I feel that the Supreme Court, in the Chadha case, dealt with a congressional veto and, in so doing, indicated that a concurrent resolution in that instance does not meet the requirements of the Constitution, in that a concurrent resolution cannot be a law. Therefore, in the case of the War Powers Act, the concurrent resolution to withdraw troops within the first 60 or 90 days would not be a law.

In the Chadha case, the court pointed out that a concurrent resolution is not presented to the President, as is required by the Constitution for any matter that is to become law. The court did not deal with the War Powers Act. But we have the same flaw in the War Powers Act, in that it provides for a concurrent resolution to remove troops introduced into hostilities. That would not be a law or a legislative act, under the requirements of the Constitution, because it would not be presented to the President.

So my amendment simply corrects that defect and provides that any withdrawal as would have heretofore been required by way of a concurrent resolution under section 5(c) of the War Powers Act, would have to be by joint resolution, which would have to be presented to the President, which he could veto, and which veto Congress could override by a two-thirds vote of both Houses.

My amendment also provides for an expedited procedure in the case of a congressional attempt to override the President's veto.

It also clarifies the situation. In the event we were in a situation in which a President had placed troops into a hostile situation or into a situation in which the circumstances clearly indicate imminent involvement in hostilities, there might be some effort to take that to the court during the 60-day period, and it might happen late in that 60-day period.

So this simply clarifies the matter, so that it would not be left to the courts to do what would be probable in light of the Chadha opinion, which would be to throw out the concurrent

resolution provision as being unconstitutional as a legislative veto.

Mr. STENNIS. Mr. President, will the Senator yield to me for a question? Mr. BYRD. I yield.

Mr. STENNIS. Mr. President, I just arrived in the Chamber and have not had any prior notice about this amendment. I know it is something that deserves serious consideration or it would not be offered by the majority leader. I always wish to support his proposals.

But this amendment was not before the committee that handled the bill.

Mr. BYRD. No.

Mr. President, I ask unanimous consent that the Senator may proceed for an additional 2 minutes.

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

Mr. STENNIS. I shall take only a minute.

Mr. BYRD. Mr. President, the amendment I have offered has not been before the Foreign Relations Committee but the subject matter has been before the committee during the deliberations on the War Powers Act; the case of Lebanon. They certainly took a look at the concurrent resolution. Furthermore, the committee heard testimony on July 28, 1983, on the impact of the Chadha decision on legislative veto provisions of statutes related to foreign relations, including the War Powers Act.

In light of the Supreme Court decision in the Chadha case, the Lebanon debate, and the July hearings, I think that the members of the committee are very conversant with the subject and, therefore, would be prepared to cast a vote on it without further debate.

Mr. STENNIS. I just heard of the amendment in the last 2 or 3 minutes. We had a debate here on the situation on Lebanon, and I thought it was a pretty good debate, and then there was a vote. The vote that I cast was not with the majority. It was defeated.

But this is such a delicate, sensitive, and far-reaching matter, that is seems to me, with great deference to the minority leader here, we should not be passing anything on this subject without prior notice, at least, if not committee consideration, but some committee consideration would be better, and I notice here that there are only three or four Senators in the Chamber. It sounds as if the vote is imminent now.

So as one who was awfully interested in that debate and voted with the losing side, so to speak, I respectfully say that I cannot vote for this or any other amendment under all these circumstances. The membership has not thoroughly gone into it.

Mr. BYRD. Mr. President, I respect the Senator's position.

Mr. STENNIS. I wish to say that to Senators.

Mr. BYRD. I certainly find no fault with the Senator's feeling with regard

to his own viewpoint and I respect him for it.

But I think Senators are conversant enough with this matter that they will cast a vote based on their own good judgments and on the information that they do already possess.

Mr. STENNIS. I thank the Senator.

Mr. GOLDWATER. Mr. President, will the Senator yield a moment?

Mr. BYRD. Mr. President, I yield the floor or I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I wish to comment that the Senator certainly has every right to offer this amendment.

If this matter were to go before the committee I think I know what the committee would do.

I do not believe the Supreme Court will ever make a decision specifically pointing out the War Powers Act is or is not unconstitutional because their attitude down through our history has been not to do anything in the way of judgment on political questions that they feel the executive and legislative branches can handle, and this is one of those cases.

So I not taking a vehement stand against my friend from West Virginia. It is a continuation of a stand that I have held ever since this matter was introduced, and I know the outcome of the vote.

I will continue to fight this, hoping to win some day.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. Time for debate has expired.

Mr. HUMPHREY. Mr. President, is a unanimous-consent request in order?

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that I may proceed for 30 seconds to make a statement before we have a vote.

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

Mr. HUMPHREY. Mr. President, I simply wish to state for the record that I intend to vote against this amendment, not that I am especially opposed to it on the merits, but simply on the basis that I have not had time to consider both sides of the issue. Inasmuch as this is a momentous question to be decided, I prefer to vote against it and allow myself time to study it in anticipation of a future vote.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for 30 seconds.

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

Mr. BYRD. Mr. President, Senators are not unaware of what this is all about. It was discussed to some extent during the war powers debate recently and the media has carried articles dealing with the Chadha decision. This is a matter which protects this institution, the legislative branch, in its rights and at the same time does not

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create an impediment to the executive branch because the President could very well veto a joint resolution. Obviously, he cannot veto a concurrent resolution—which is now in the law—because it would not be presented to him.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment of the Senator from West Virginia.

Mr. BYRD. Mr. President, I received consent, I believe, to withdraw the yeas and nays on the amendment in the second degree.

The PRESIDING OFFICER. The Senator is correct.

Mr. GOLDWATER. Mr. President, were not the yeas and nays ordered on this?

Mr. BYRD. On the second-degree amendment they were vitiated.

The PRESIDING OFFICER. On the second-degree amendment the yeas and nays were vitiated.

The question is on agreeing to the amendment in the second degree of the Senator from West Virginia.

(Putting the question.)

The amendment (No. 2363) was agreed to.

AMENDMENT NO. 2350, AS AMENDED

The PRESIDING OFFICER. Now the question is on agreeing to the amendment of the Senator from West Virginia in the first degree, as amended.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) and the Senator from Idaho (Mr. McCLOURE) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON) is necessarily absent.

The PRESIDING OFFICER (Mr. KASTEN). Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 11, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—86

Abdnor	Ford	Moynihan
Andrews	Garn	Murkowski
Armstrong	Glenn	Nickles
Baker	Gorton	Nunn
Baucus	Grassley	Packwood
Bentsen	Hart	Pell
Biden	Hatfield	Percy
Bingaman	Hawkins	Pressler
Boren	Hecht	Proxmire
Boschwitz	Heflin	Pryor
Bradley	Hollings	Randolph
Bumpers	Huddleston	Riegle
Burdick	Inouye	Roth
Byrd	Jepsen	Rudman
Chafee	Johnston	Sarbanes
Chiles	Kassebaum	Sasser
Cochran	Kasten	Simpson
Cohen	Kennedy	Specter
D'Amato	Lautenberg	Stafford
Danforth	Laxalt	Stevens
DeConcini	Leahy	Thurmond
Dixon	Levin	Tower
Dodd	Long	Trible
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	Mattingly	Warner
Eagleton	Melcher	Weicker
Evans	Metzenbaum	Zorinsky
Exon	Mitchell	

NAYS—11

Denton	Helms	Stennis
East	Humphrey	Symms
Goldwater	Lugar	Wilson
Hatch	Quayle	

NOT VOTING—3

Cranston	Heinz	McClure
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So Mr. BYRD's amendment (No. 2350) as amended was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2371

(Purpose: To call for a review of United States participation in the United Nations)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. NICKLES), for himself, Mr. SYMMS, and Mr. RANDOLPH, proposes an amendment numbered 2371.

Mr. NICKLES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the bottom of page 48, add the following:

TITLE VII—GENERAL PROVISIONS
REVIEW OF UNITED STATES PARTICIPATION IN
THE UNITED NATIONS

SEC. 701. (a) The Congress finds that—

(1) the United Nations was founded for the primary purpose of maintaining international peace and security by encouraging peaceful resolution of disputes and the development of friendly relations among nations;

(2) the United States, as a founding member of the United Nations and the largest contributor to the United Nations, became and remains a member of the United Nations in order to contribute to collective efforts among the nations of the world to realize the ends of international peace and security;

(3) the United States is committed to upholding and strengthening the principles and purposes of the United Nations Charter upon which the United Nations was founded.

(b) It is the sense of the Congress that—

(1) a review of United States participation in the United Nations is urgently called for with a view to examining—

(A) the extent and levels of United States financial contributions to the United Nations;

(B) the importance of the United Nations, as presently constituted to fulfilling the policies and objectives of the United States;

(C) the benefits derived by the United States from participation in the United Nations;

(2) the President should review and make recommendations to the Congress regarding the matters described in this section by June 30, 1984 and

(3) the Secretary of State should communicate to the member states of the General

Assembly of the United Nations the policy contained in this section.

Mr. NICKLES. Mr. President, the amendment that I offer today, along with my colleague, Mr. SYMMS, is the result of our concern over the deterioration of the original intent of the United Nations. I am not on an anti-United Nations campaign nor am I trying to punish the member nations. Rather, this is an attempt to reaffirm the principles of the U.N. charter.

The charter states that the members shall maintain international peace and security—first and foremost. The United Nations arose from the ashes of World War II to prevent another such holocaust. And yet, one must ask how successful is the Security Council in maintaining peace.

Libya has invaded Chad with no consideration by the Security Council. The Iran-Iraq war continues with thousands of lives lost and no discussion in the United Nations. The invasion of the Soviets into Afghanistan is not an item on the agenda nor has anything been done over the presence of Vietnam in Kampuchea. Lebanon is torn apart—no longer capable of self-government. The multinational peace-keeping group in Beirut, including our own marines, are not sponsored by the United Nations. Nicaragua declares unsubstantiated charges of imminent invasion by the United States at the Security Council rather than the proper arena under the U.N. charter which is the Organization of American States.

The United Nations, in a variety of other contexts, has aggravated rather than resolved conflict. Some members have sought to exclude Israel from participation in the United Nations. The latest manifestation of this tendency was the decision by the Government of India, as head of the non-aligned movement, to bar Israel from participation in the International Energy Conference held this fall.

Mr. President, the United States is committed to world peace. Our Nation has demonstrated this throughout the nearly 40-year history of the United Nations. When the nations at the San Francisco Conference voted to locate the headquarters in New York City, several things happened: Congress passed the resolution allowing the President to make the agreement; New York City gave waterfront rights and made arrangements to improve the area in which the headquarters would be built; and John D. Rockefeller, Jr., offered the land. During those early years, the United States bore 40 percent of the financial support and today is paying close to \$1 billion a year.

I strongly believe that the U.S. Congress must play a larger role in oversight of the U.N. and its objectives. We task the American taxpayers with this burden of \$1 billion a year; therefore, they deserve to know that we are doing all we can to make certain that