

***From Iran-Contra Investigation, Joint Hearings Part II, July 10,13, and 14 1987: Continued Testimony of Oliver L. North and Rober C. McFarlane (Questioning by Members). pp. 31-46.***

The Select Committees met, pursuant to call, at 9:05 a.m., in room 325, Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the Senate Select Committee) and. Hon. Lee H. Hamilton (chairman, of the House Select Committee) presiding.

Chairman INOUYE. The hearing will please come to order.

The Chair recognizes Senator Mitchell.

CONTINUED TESTIMONY OF OLIVER L. NORTH, FROM JULY 10

Mr. MITCHELL. Good morning, Colonel North.

Mr. NORTH. Good morning, Senator.

Mr. MITCHELL. Good morning, Mr. Sullivan.

Mr. SULLIVAN. Good morning, sir.

Mr. MITCHELL. Colonel, this should be the last day of your appearance. I am sure you are relieved of that.

Mr. NORTH. I am, sir.

Mr. MITCHELL. All right. The questions last week were mostly about the facts. They are important. But it is also important to consider some of the broader policy and legal issues. One of the purposes of the committee is to consider the relevant laws; see how they worked or didn't work in this case, and recommend changes in those laws, if appropriate.

Another is to try to find out how and why these important policy decisions were made and whether we ought to change the manner in which decisions are made.

And I would like to try to do that, at least to some extent, this morning; and so, perhaps, out of all of this we could all learn something.

Now, you said last week that you have obeyed the law. You haven't claimed, and I understand you don't now claim, that you are in any way above or exempt from the requirements of the law; is that correct?

Mr. NORTH. That is correct, sir.

Mr. MITCHELL. And you agree, don't you, that every American, whatever his or her position,

must obey the law?

Mr. NORTH. I do.

Mr. MITCHELL. That is true, even if a person doesn't agree with the particular law?

Mr. NORTH. Yes, sir.

Mr. MITCHELL. Now, if a law is properly enacted and it's constitutional, but that law is in conflict with the President's policy, domestic or foreign, which is controlling, the law or the President's policy?

Mr. NORTH. Well, certainly, as I have indicated in my earlier testimony, the law is the law, and as you have also indicated in my testimony, I do not believe that any of us are above the law and certainly in this case, while I am not a lawyer, and do not profess to be able to play the various issues pro and con, I continue to believe that the President's policy was within the law, that what we did was constitutional in its essence, that the President's decisions to continue to support the Nicaraguan Democratic Opposition in the way that they were carried out from 1984 through my departure in 1986 fully fit within the strictures of the particular statutory constraints that were contained in Boland.

And so, I don't see, Senator, that there is a distance at all between what was passed and what we did. Certainly, there are folks who can argue the constitutionality of Boland as to whether or not the Congress has the authority to tell a President that he can or cannot ask a head of state or send his agents, in this case myself, out to talk to foreign leaders.

It is my understanding of the Constitution and the laws that there is no separation between what we did and the Boland constraints. In my going out to talk with foreign Heads of State or foreign leaders or to arrange for non-U.S. Government moneys to be used, that met the rigorous constraints imposed by Boland.

Mr. MITCHELL And I, of course, have not suggested that. I have only asked, and I believe you have agreed that if a properly constituted law has been enacted and it's constitutional, that even though it conflicts with the President's policy, the President--I have only asked that--and I think it is rather an unremarkable question, that when a law of the United States is properly enacted and it's constitutional, even though it conflicts with a President's policy, the President or members of the Executive Branch, and indeed all Americans, must obey that law?

Mr. NORTH. I have no debate with that whatsoever, Senator. What I would not want to leave the record lacking on is the fact that I think there are many people who debate whether or not the issue of Boland, as it is interpreted by a number of different people, applied.

Mr. MITCHELL. I am not debating that, and I think the record is very clear on your view on that, sir. Now, as I said, one of the purposes of this committee is to find out how and why these

important policy decisions were made, and I speak now particularly with respect to the sale of arms to Iran.

So, I would like to ask you a few questions about that. You have testified that the Iranians with whom you dealt in both what have been called the first and the second channels included officials of the Government of Iran; am I correct in that?

Mr. NORTH. Yes.

Mr. MITCHELL. Now, you and the other persons meeting with the President on this matter were aware, weren't you, that the President had been highly critical of the Iranian Government. In a widely reported speech in July of 1985--just a month before the first shipment of arms from Israel to Iran--which the President agreed to--the President described Iran as an outlaw state run by the strangest collection of misfits, looney tunes, and squalid criminals since the advent of the Third Reich.

To your recollection, during the meetings you attended with the President, with others, did anyone in your presence specifically point out to him that his representatives were dealing with officials of that same Government of Iran, point out that statement to him, and point out the at least apparent inconsistency in the two, and the problems that might cause for him?

Mr. NORTH. That particular issue was not addressed in the meetings that I attended with the President on this matter. But what I think is important is that we clearly attempted to establish contact and ultimately the objective of a strategic dialogue with pragmatic or moderate or less unreasonable elements of the Iranian Government, and even, if we could have, people who were willing to bring about a cessation of terrorism, a more pro-Western view of the world, an end to Shiah-sponsored revolutionary fundamentalism, and ultimately secure the relationship between the United States and Iran to the point where we could bring about an end to the Iran-Iraq war.

The characterization of the Iranian Government I don't take any issue with; but the fact is that there are people in their government of differing political philosophies who see the long-term benefit to their country as well as to the rest of the world in achieving the kinds of things that we sought out or set out to ultimately achieve.

The problem that is created is matching one set of words with another set of policy goals that were not publicly stated. And yet, I see nothing inconsistent with the fact that the characterization of the Iranian Government as the President made it vividly clear does not in any way prevent trying to establish contact with a more reasonable channel within it.

Mr. MITCHELL. Right. Well, in fact, the President's publicly-stated policy at that time was not to provide arms to Iran and to work actively to keep other nations from doing so. As you will recall, in 1984, the Secretary of State had branded Iran a country which has repeatedly provided support for acts of international terrorism. And by his action, he placed Iran on a list of countries

to which American arms could not be shipped.

And the President's publicly-stated policy on terrorism was that there would be no negotiation, no payments, no ransom of any kind to obtain the release of terrorists. In fact, I think in about that same time as he made the speech on Iran, the President said, and I quote, "America will never make concessions to terrorists. To do so would only invite more terrorism. Once we head down that path, there will be no end to it."

Now my question is, am I correct that every person dealing directly with the President on this matter was a member of the Executive Branch and, therefore, subordinate to and totally dependent upon the President?

Mr. NORTH. When you say this matter, you are referring to--

Mr. MITCHELL. The Iran--

Mr. NORTH. The Iranian—

Mr. MITCHELL. --Advising him on the issue of the sale of arms to Iran?

Mr. NORTH. To my knowledge that is correct. I do not know of any others that specifically talked to the President regarding our Iran initiative. But in the records I turned over to the committee, and in some of the documents that were removed from my office and provided by the White House to this committee, it is very clear that there were a number of other initiatives ongoing, some by Members of Congress, both Houses, both sides of the aisle, who had an interest in some kind of dialogue with the Iranian government for the purposes that were identical to the ones that we pursued, perhaps more vigorously than some would agree.

Nonetheless, there were a number of other initiatives undertaken by private Americans, by Senators, by Congressmen to get to a faction within Iran that would be more moderate.

I would also take issue, Senator, with one of your comments. To my knowledge, we have never said nor should we say that we will not negotiate. We have a policy of no concessions. We have a policy that is very clear, and I still do not to this day believe that we made concessions to terrorists. We were dealing again in hopes of establishing a dialogue, a strategic dialogue, with elements within Iran that could bring about a more pro-American, pro-Western, anti-terrorist philosophy within that country.

Mr. MITCHELL. And I understand and appreciate your point of view, as I'm sure you understand and appreciate that there are others who would characterize these events different from you do. But the point is that every person advising the President was his subordinate and when the Finding authorizing the sale of arms to Iran was signed by the President, it specifically directed that no one in the Congress be notified of the covert action. You recall that, your

testimony to that effect?

Mr. NORTH. I do.

Mr. MITCHELL. And you said that the reason for that was concern over leaks and the problem that because it might be leaked it would jeopardize the action. And you've in the course of the last several days expressed very forcefully that point of view. I raise that because there's another point of view on that same issue that hasn't been expressed, and I would like to do that now. Because I think we ought to have the benefit of all points of view on this as we consider what we should do about this law which is so very difficult.

Now in our democracy, public policy is made in public. It's the product of open, competitive debate. There are two reasons for that. The first is that the American people have a right to know what their government is doing and why. And the second is our belief that if all points of view are heard, especially opposing points of view, the person making the decision is more likely to make the right decision. The decision that is in the national interest.

Open debate is one of democracy's greatest strengths. Its absence is one of the great weaknesses of totalitarian societies. Now I believe it's one of the reasons why freedom is going to win the world-wide struggle in which we are now engaged. Now when covert action is necessary, as it is from time to time, obviously there can't be an open debate. And that is a real loss, especially to the decision maker who is deprived of the full range of opinion on an important issue. So the law tries to compensate for that, at least to some extent. It requires the President to notify just eight of the top congressional leaders, four from each party. He either can notify the Intelligence Committees, or at his option, he may choose to notify just eight of the top congressional leaders, four from each party.

Now the reason for that law, at least one reason, is to give the President the benefit of different points of view. Each of the congressional leaders is elected independently of the President, is therefore not subordinate to and dependent upon him, and more likely to give the President the frank advice that any President needs in making these very difficult decisions.

Now, of course, the concern which you expressed about leaks is a real one. There have been leaks by Members of Congress, and I believe every member of this committee joins me in dismay when a Member of Congress leaks sensitive information. But let's be clear. The fact that a few Members of Congress leak doesn't mean that all Members of Congress leak. Just as the fact that some members of the Administration leak cannot be fairly said to mean that all members of the administration leak.

Now obviously, not just in these matters, but in life generally, every time you tell one person a secret you increase the odds that the secret won't be kept. And so there has to be a judgment. How much benefit does the President get from the advice of independently elected congressional leaders against how much the risk of leaks increases by their knowledge.

Now let's apply that to the facts of this case. Many people in the Executive Branch of our government knew. Private American citizens, some without security clearances, knew. Some Israelis knew, some of them government officials, some private citizens. Some Iranian officials knew. Some Canadians knew. At least one Saudi Arabian knew. And Mr. Ghorbanifar, an Iranian citizen, who you said is an Israeli agent and who you and others have described as a liar and a cheat, he knew.

In those circumstances, how much would the risk of disclosure have been increased by telling eight of the highest elected officials in the U.S. Congress, and against that, how much did the President lose when he was deprived of the independent advice of those eight officials ?

Every person will make his or her own judgment on those questions. I just want to say that for myself, I am convinced that if the President had told these independent public officials of his intention to sell arms to Iran, to swap arms for hostages, to pursue a private policy that directly contradicted his public policy, at least some of them--maybe Lee Hamilton, or Dick Cheney, or Bob Dole, or Bob Michel--some of them would have said before the fact what the American people have said after the fact: "Mr. President, we respect and admire your concern for the hostages, but it is a mistake to sell arms to Iran. It is a mistake to swap arms for hostages, for you and for the country. Don't do it."

Perhaps then the President would have chosen another course. We'll never know, but I thought it important that at least that point of view be expressed, the point of view which has not been expressed so far with respect to that provision of the law which I believe to be an important one.

Now, that whole area of covert operations is one which this committee will have to explore in detail, and I'd like to get into that and ask you some questions about that.

You made a strong statement in favor of covert action. General Secord made a similar statement when he was here. Let me assure you there's no dispute on the need for some covert action. I know of no Member of this committee who favors prohibiting all covert action. We all recognize that there are going to be circumstances in which the United States simply must conduct covert actions in the national interest, but the problem is that covert actions by their very nature conflict in some respects with democratic values.

You've said that covert actions require secrecy and deception. Our democratic process places a high value on the very opposite characteristics of openness and truth. So the real question and the much more difficult question is how to conduct covert operations in an open, democratic society in a lawful manner, in which public officials are accountable for their acts.

And so my first question is, do you believe that the President has unrestricted power to conduct covert action?

Mr. NORTH. Within the limits of the constitutional authority to prosecute the foreign policy of

the United States, the President has a very wide mandate to carry out activities, secretly or publicly, as he chooses.

Well, I do not believe that the things that we did in pursuing the two principal covert actions we have discussed and some of the subsidiary activities that were pursued as a consequence of the revenues generated were in any way prohibited. And the fact is that the President, since the founding of the Republic, has always held that he could send his agents, he could discuss things and negotiate with foreign leaders, and to do so within the framework of the constitutional authority as the head of state and the Commander in Chief has widely been held to be within his Presidential purview.

There are certainly those who can debate whether or not a certain period of time is appropriate for notification, given the constraints of Hughes-Ryan and the National Security Act, and I am certainly not going to sit here and debate them with you.

My sense is that we are going to agree to disagree at the end of this hearing on how wide and perhaps even how deep the Presidential authorities go.

Mr. MITCHELL. Well, let's look at the current law, which I think we can agree isn't working very well, and you said last week there must be a better way. If there is one, it is part of our job to find it.

Mr. NORTH. When I was saying there must be a better way, Senator, I was talking--I hope I was responding to a question on notification and seeking the advice of Congress.

Mr. MITCHELL. Well, I want to get to the law. And, first, the law requires that the President personally make a Finding that the action is important to the national security of the United States and authorize it before a covert action can occur. Do you agree with that provision of the law?

Mr. NORTH. That is my understanding of the statutes pertaining to covert action.

Mr. MITCHELL. Right. Do you agree--

Mr. NORTH. Let me, if I may, just continue.

Mr. MITCHELL. All right.

Mr. NORTH. It is my understanding, again--and I don't have the statute in front of me--that it also applies to the fact that the President need do so when he is going to use appropriated moneys for the pursuit of one of those covert actions. And again, I do not have the statute before me. I'm not sure that it pays to have a professional lawyer and an experienced jurist debating with a lieutenant colonel infantry officer on this issue.

Mr. MITCHELL. It is an important issue. You have been involved in covert actions. You held a high position in the government.

Mr. NORTH. I would even debate that part with the Senator.

Mr. MITCHELL. Do you agree that no covert action should occur unless the President first finds that it is necessary and specifically authorizes it?

Mr. NORTH. Again, I want to go back to what I just said a moment ago. I'm leading with my recollection unrefreshed, but the law provides that the President does, or makes a Finding in the case of covert actions which will expend taxpayers' moneys.

Mr. MITCHELL. Is it your--you've said that twice now. Is it your contention that the President could authorize and conduct covert actions with unappropriated funds? Is that the point you are trying to make?

Mr. NORTH. Yes.

Mr. MITCHELL. And in such event, to whom would the President be accountable?

Mr. NORTH. To the American people that elected him, Senator. And that's one of the issues that came up the other day, that no elected official knew A, B, or C, and my point is the President is the highest official in the land answerable to the American people and ultimately, under the Constitution, answerable to the people through a variety of means, reelection--they can vote him out of office. They chose not to do so.

Mr. MITCHELL. But of course, if by definition covert action is secret and he doesn't tell them about it, there is no way the American people can know about it to be able to vote him out of office on that basis, is there?

Mr. NORTH. But, in fact, that is the issue I tried to raise in the letter that I wrote well before I ever met counsel.

When I was talking about the Jay treaties, it was not that President Washington in any way was not cooperative with the Congress; he simply refused to lay before the Congress all of what had gone on in the negotiation of those treaties.

That was debated again in the 1930s in the *U.S. vs. Curtiss-Wright Export Corporation*, and the Supreme Court held again that it was within the purview of the President of the United States to conduct secret activities and to conduct secret negotiations to further the foreign policy goals of the United States.

Mr. MITCHELL. If I may just say, Colonel, the *Curtiss-Wright* case said no such thing. It

involved public matters that were the subject of a law and a prosecution--you said this isn't the appropriate form to be debating constitutional law, and I agree with you.

I just think the record should reflect that *Curtis-Wright* was on a completely different factual situation and there is no such statement in the *Curtis-Wright* case.

Mr. SULLIVAN. I disagree with you. I think it is a little unfair--to have a debate with Colonel North--

Mr. MITCHELL. I just said that there was no point in debating it. Let me get to this specific covert action.

Mr. SULLIVAN. If I could suggest, sir, if you ask him what he did, what the facts were, what his understanding was at the time, rather than get into a general debate about what the law is, it might be more helpful to the committee.

Mr. MITCHELL. Colonel, you testified earlier about the Contra re-supply effort and your role in it. You said, "This was a covert operation run by the U.S. Government."

You said, "We were conducting a covert operation." And you testified that Director Casey described it as a full-service covert operation.

Now, under the law, for any agency of government other than the Central Intelligence Agency to conduct a covert operation, three things must occur. The first is that the President must specifically designate that agency to conduct covert operations; the second is that the President must make a Finding authorizing this particular covert operation and Finding it in the national interest.

Now, in this respect, I will start with these two.

You have already testified that the President did not make a Finding authorizing the Contra resupply covert operation; is that correct?

Mr. NORTH. I have seen no Finding.

Mr. MITCHELL. Did the President specifically designate the National Security Council to conduct covert operations?

Mr. NORTH. I have no specific knowledge of that, as I have testified. I've told you what I know about the decision process that obtained in that case.

Mr. MITCHELL. And the third thing the law requires is that Congress be notified and as you testified that did not occur?

Mr. NORTH. Senator, if I may--not to interrupt--and respectfully so--but the law, as I understand it, requires the President notify the Congress in a timely manner. That has not been noted. And, second of all, it is in regards to operations involving the use of appropriated funds. And I think that those are important omissions that have not been entered in the record.

Mr. MITCHELL. All right. Then let me go back to the first two, then.

Since the law and President Reagan's written instructions required that before the National Security Council could conduct a covert operation the President had to specifically designate the National Security Council for that purpose and, secondly, since the law requires that before any covert action could be conducted the President must specifically authorize it--since you have testified that you conducted a covert operation and since you further testified that the President neither designated the National Security Council to conduct covert operations nor did he make a Finding authorizing this covert operation, what was the legal basis for your activities with respect to this covert operation?

Mr. NORTH. To go back once again to *Curtiss-Wright*--because I do believe it does speak to the issue of what the President can or not do with his own staff. And I believe it does talk to the issue of conducting secret diplomacy--the fact is, the President can do what he wants with his own staff.

The National Security Council staff is not included within the constraints that are depicted in either the Executive order or the NSDD as an intelligence agency. And thus in neither case does the law provide that the President had to do what you are saying he had to do.

Mr. MITCHELL. Well, I hand to you a copy of President Reagan's order.

Mr. NORTH. You are referring to NSDD 159.

Mr. MITCHELL. Yes, right. This is the first page of an order signed and approved by President Reagan, and the first sentence of paragraph no. 2 reads: "In accordance with Executive Order 12333, the Central Intelligence Agency shall conduct covert actions unless the President specifically designates another agency of the government."

Now, that is not limited to other intelligence agencies; I think a fair reading of that can only mean that no agency of government can conduct a covert action, other than the Central Intelligence Agency, unless the President specifically designates that agency for that purpose?

You have testified that, as a member of the National Security Council staff, you conducted a covert operation. And my question is: did the President specifically designate the National Security Council staff for that purpose?

Mr. NORTH. Again, I think we are going to end up agreeing to disagree, Senator. I think what I

have said consistently is I believed that the President has the authority to do what he wants with his own staff, that I was a member of his staff, that Mr. McFarlane was and that Admiral Poindexter was, and that in pursuing the President's foreign policy goals of support for the Nicaraguan Resistance he was fully within his rights to send us off to talk to foreign heads of state, to seek the assistance of those foreign heads of state to use other than U.S. Government moneys, and to do so without a Finding.

I would also point out again that that language right here in paragraph 2 of the NSDD extract that you have is taken directly from the Executive order.

Mr. MITCHELL. That is right.

Mr. NORTH. An Executive order signed by the President. This NSDD was signed by the President. If the President chooses to waive his own Executive orders or chooses to waive the provisions of his own NSDDs which do not have the force of law, it is fully within his rights to do so.

Mr. MITCHELL. But the President told the Tower Board, and I quote: "The President told the Board on January 26, 1987 that he did not know that the NSC staff was engaged in helping the Contras," and therefore, the President could not have waived the provisions of the orders as you have described, and could not have so designated the NSC if, as he said, he did not know that the NSC staff was engaged in helping the Contras, could he?

Mr. NORTH. You are asking me to speak for the President and what he said to the Tower Board, and I have not talked with the Tower Board, nor was I there when he did. The fact is, as I have testified for 4 straight days, I--and I think there is no one on this committee that would debate it— kept my superiors fully apprised of just exactly what I was doing.

They were, and I was a member of the President's staff. The President has since said, I believe publicly, that he was aware of what was being done, and that in fact it was at least partially his idea.

There is no doubt that the President wanted the policy of support for the Nicaraguan Resistance pursued, and I did so to the very best of my abilities.

Mr. MITCHELL. Well, I think you are right, we will agree to disagree. So I take it your position is that your understanding of the President's general knowledge of what you were doing represented--your standpoint, a specific designation by the President of the NSC to conduct such activities, and with respect to a Finding, I gather it is your position that no Finding was necessary in any event.

Mr. NORTH. That is, sir.

Mr. MITCHELL. All right. Thank you.

I would just note again that there is another point of view that should be expressed, which is that the law and President Reagan's own orders specifically set forth the means by which covert actions would be approved and conducted.

They represent an attempt to balance the difficult and conflicting interests of conducting covert operations in a democracy and I think that the only way covert actions can be conducted in a manner consistent with democracy is if those laws and orders are followed, and I simply think it is obvious in this case that there is at least a question about that.

So, we will just leave it--

Mr. NORTH. If I may just respond to that?

Mr. MITCHELL. Go right ahead, Colonel, yes.

Mr. NORTH. As I have also testified, I came here to tell you what I did and what others told me to do or allowed me to do, however one wants to characterize it, not so much to take positions on this or that aspect of the law, because I am not a lawyer.

I think what is also important is that we believed, certainly I believed, that what we were doing was consistent within that, the constraints of the various statutes and laws. And, lastly, I have told the committee that as early as June of 1986, I, not the Tower Commission, proposed in the public speech to the American Bar Association that there were indeed problems, and recognizably so, in the conduct of covert operations in a democracy. And I--if nothing else, we can agree on the fact that there is a need for an appropriate way of conferring with the Congress, and I suggested as one means of doing that the formation of a very discreet Joint Intelligence Committee with a very small and professional staff that would allow those types of--advise and consult conferences to occur between the Executive and the Legislative branches.

Mr. MITCHELL. I would like to turn now to another area of your testimony, and that is the plan you described for you to take the blame for this matter. You said Mr. Casey called it the fall guy plan.

Over what period of time did your discussions with Mr. Casey occur about this plan? That is, as best you can recall, when did it first come up, and when did you last discuss it with him?

Mr. NORTH. My sense of the discussions with the Director on that aspect of it, it probably began in the early spring of 1984. It was a time in which the money for the Resistance was running out, and as members of the Intelligence Committees know, appeals had been made to the Intelligence Committees for the release of certain moneys that could be applied to the program.

It was seen that that was not to be forthcoming, and at that point in time when alternatives were discussed and we eventually decided to pursue availing ourselves of offers from foreign governments.

It was seen that there would need to be someone who could, as I put it so bluntly, take the fall. My sense is that that occurred off and on, periodically, as we discussed various initiatives over the course of time between early 1984 until the end of my tenure right up at the last days before I departed the NSC in November of 1986.

Mr. MITCHELL. Now, you testified that the purpose of the plan was to limit the political embarrassment that might result--you are shaking your head no?

Mr. NORTH. It was not only to limit the political embarrassments.

Mr. MITCHELL. That was in part a purpose?

Mr. NORTH. In part.

Mr. MITCHELL. From disclosure of these events. And my question is when you said that, did you mean either the sale of arms to Iran, or the use of proceeds from the sale for the Contras, or the Contra resupply effort, or all of them?

Mr. NORTH. All of them. In fact, one must recall that it goes back to the spring of 1984, before there was any Iran initiative, and the discussion was, you needed to have the plausible deniability which ought to be a part of any covert operation.

Mr. MITCHELL. Now, did you ever discuss this subject with anyone else, either in or out of Mr. Casey's presence?

Mr. NORTH. I discussed it with Admiral Poindexter and Mr. McFarlane, and I don't recall whether Director Casey was there for all or any of those discussions necessarily.

Mr. MITCHELL. I see.

Mr. NORTH. But I certainly did talk to both of them about it.

Mr. MITCHELL. Do you know, of your knowledge, whether Mr. Casey discussed it with anyone other than Mr. McFarlane and Mr. Poindexter?

Mr. NORTH. I don't know.

Mr. MITCHELL. All right. So, to your knowledge, at least, the only four people who were aware of the plan and who participated in discussions about it were you, Mr. Casey, Mr. Poindexter,

and Mr. McFarlane; is that correct?

Mr. NORTH. Well, I have also been asked questions about, did I say it to such and so, or another witness, or whatever, and I suppose that I did.

Mr. MITCHELL. Something like that?

Mr. NORTH. Yes.

Mr. MITCHELL. I was going to ask you about that later. I'll ask you about that now.

In a recent magazine article, you are quoted as telling friends beginning in 1984 that "the day will come when I have to resign in disgrace from the administratron and take the heat for the President."

Did you ever say that or something like that to anyone?

Mr. NORTH. First of all, I would like to make sure that you understand, Senator, I haven't read a magazine article or anything else about myself in some time, except as other people bring it to my attention. And second of all, I've seen my words mischaracterized, misquoted, and ascribed to other people for so long I wouldn't want to indicate I actually agreed with anything.

But I'm sure that I said something like that at various points in time. I certainly said it to the committee.

Mr. MITCHELL. Now, did the suggestion that you be the fall guy originate with you or with Mr. Casey?

Mr. NORTH. My guess is it was probably Director Casey. I mean, we--I've tried to describe the relationship I had with the Director, and at some points it was that of a teacher or a philosophical mentor, in some cases it was that of an experienced hand in intelligence matters, or in some cases just getting the job done. And I would guess that Director Casey was the one who pointed out that there would come a time when there would need to be, if these activities were exposed, somebody to stand up and take the heat for it, or those kinds of words.

Mr. MITCHELL. So your recollection is that it was Mr. Casey who--

Mr. NORTH. I'm not sure that Director Casey ever said, "It has to got be you, Ollie." It was probably Ollie saying, "Well, when that happens, it will be me."

Mr. MITCHELL. You also said at one point Mr. Casey said you might be too junior a person to be the fall guy, that there wouldn't be plausible deniability then, and he--excuse me, may I finish the question--suggested that Admiral Poindexter might have to be a fall guy. Do you recall that

testimony?

Mr. NORTH. I'm not sure that--I recall that kind of thing happening right toward the end. I mean that wasn't at some point during the earlier phases of this activity. I think it was after the revelations of the McFarlane trip and the press queries about it here in this country.

And at some point, probably after the first week of November, talking with Director Casey, or in that timeframe, Director Casey indicating "you're not big enough, buddy; it's probably going to go higher."

Mr. MITCHELL. And my question is, did you or anyone else ever tell Admiral Poindexter that he was under consideration as the fall guy?

Mr. NORTH. I don't recall a specific conversation, Senator, that I said, "Boss, it's now you, not me." I do recall, again right towards the end, discussing with Admiral Poindexter the fact that it was more likely that both of us would leave.

Mr. MITCHELL. So did anything ever become of that suggestion?

Mr. NORTH. We both left, sir.

Mr. MITCHELL. You both left. So--it may turn out that Mr. Casey was more correct than he realized at the time.

Mr. NORTH. He was right about a lot of things, Senator.

Mr. MITCHELL. During your discussions with Mr. Casey, Mr. McFarlane and Mr. Poindexter about the plan, did a question ever arise among you as to whether what was being proposed was legal?

Mr. NORTH. In which case? Across the board on all activities?

Mr. MITCHELL. No, on the plan, the fall guy plan. I'm limiting it to that now.

Mr. NORTH. Oh, no, I don't think it was--first of all, we operated from the premise that everything we did do was legal and therefore the fact that there would be somebody who took the blame, as it were, was not inconsistent, I don't think, with any of the rest of what we did.

Mr. MITCHELL. So your answer is, no, there was no discussion?

Mr. NORTH. I do not recall any discussion about the legality of some guy standing up and saying, "I did it all, and I'm gone." I don't recall any such discussion.

Mr. MITCHELL. Did a question ever arise as to whether what was being proposed was appropriate since it necessarily involved false statements by high public officials?

Mr. NORTH. No, in fact, I'm not sure they are false. I think you have before you the culprit who did all these things, and has come here and testified to that.

Mr. MITCHELL. Well, of course, you didn't intend that there would be such an investigation and such testimony.

Mr. NORTH. I surely hoped that there wouldn't be, Senator.

Mr. MITCHELL. In fact, you said that neither you nor anyone else anticipated the possibility of a criminal investigation and that, but for the criminal investigation, you were prepared to go through the plan, resign in disgrace and take the heat for the President?

Mr. NORTH. That's correct.

Mr. MITCHELL. But you said that because of the criminal investigation, you changed your mind and decided to protect yourself.

Mr. NORTH. Exactly.

Mr. MITCHELL. Now, after you changed your mind, did you tell Mr. Casey that you had done so?

Mr. NORTH. I had no discussions with Director Casey on the day that my mind changed; and that was the 25th of November. And never talked to him again, unfortunately.

Mr. MITCHELL. And after you changed your mind, did you tell Admiral Poindexter or Mr. McFarlane that you had changed your mind and that because of this pending criminal aspect, you no longer intended to be the fall guy in the fall guy plan?

Mr. NORTH. They probably learned it when I appeared here, sir.

Mr. MITCHELL. Probably not a happy day for Admiral Poindexter listening to your testimony last week?

Mr. NORTH. I don't want to characterize how the admiral feels. I have not talked to the admiral in months.

Mr. MITCHELL. Really, you have answered my questions, and it was, as I understanding (sic) your earlier testimony, that there simply wasn't any question about whether it was legal or appropriate. You assumed the legality of your actions.

Mr. NORTH. Again, I want to emphasize the fact it wasn't so much for any political motive on the part of any of the participants so much as it was an effort to protect the detailed knowledge of what had transpired and protect the covert operations themselves. And, again, none of us, to my recollection, ever discussed a legal propriety aspect to the whole thing.

Mr. MITCHELL. By then; however, Congress had resumed aid to the Contras and the covert action was no longer necessary, was it? Indeed, it had been terminated. What would be the need to protect that action by making up a false story about it?

Mr. NORTH. Well, I'm not so sure how the false story aspect really obtains in this case, Senator. To have this guy stand up and say, I did it, and have the finger pointed at him and let him go protects the people with whom I worked in Central America and elsewhere, protects the lives and safety of people inside Nicaragua. Protects the people in Europe who worked with us on these activities, protects the lives of people who worked in the Lebanon with us, the lives of the people inside Iran who worked with us, the lives of the American hostages.

I mean if one could prevent those things from coming out ultimately we would be well served.

Mr. MITCHELL. My question was limited to the Contra resupply effort which of course was only indirectly related to the hostage situation. But I want to--my time is nearly up and I want to make some closing observations, because you have, as I indicated, expressed several points of view with respect to which there are other points of view, and I think they ought to be expressed, and I would like to do that now.

You have talked here often and eloquently about the need for a democratic outcome in Nicaragua. There is no disagreement on that. There is disagreement as how best to achieve that objective. Many Americans agree with the President's policy; many do not. Many patriotic Americans, strongly antiCommunist, believe there's a better way to contain the Sandinistas, to bring about a democratic outcome in Nicaragua and to bring peace to Central America.

And many patriotic Americans are concerned that in the pursuit of democracy abroad we not compromise it in any way here at home. You and others have urged consistency in our policies, you have said repeatedly that if we are not consistent our allies and other nations will question our reliability. That is a real concern. But if it's bad to change policies, it's worse to have two different policies at the same time: one public policy and an opposite policy in private. It's difficult to conceive of a greater inconsistency than that. It's hard to imagine anything that would give our allies more cause to consider us unreliable than that we say one thing in public and secretly do the opposite. And that's exactly what was done when arms were sold to Iran and arms were swapped for hostages.

Now, you have talked a lot about patriotism and the love of our country. Most nations derive from a single tribe, a single race; they practice a single religion. Common racial, ethnic, religious heritages are the glue of nationhood for many. The United States is different; we have all races,

all religions, we have a limited common heritage. The glue of nationhood for us is the American ideal of individual liberty and equal justice. The rule of law is critical in our society. It's the great equalizer, because in America everybody is equal before the law. We must never allow the end to justify the means where the law is concerned. However important and noble an objective, and surely democracy abroad is important and is noble, it cannot be achieved at the expense of the rule of law in our country. And our diversity is very broad.

You talked about your background and it was really very compelling, and is obviously one of the reasons why the American people are attracted to you.

Let me tell you a story from my background. Before I entered the Senate I had the great honor of serving as a federal judge. In that position I had great power. The one I most enjoyed exercising was the power to make people American citizens. From time to time I presided at what we call naturalization ceremonies; they're citizenship ceremonies. These are people who came from all over the world, risked their lives, sometimes left their families and their fortunes behind to come here. They had gone through the required procedures, and I, in the final act, administered to them the oath of allegiance to the United States, and I made them American citizens. To this moment, to this moment it was the most exciting thing I have ever done in my life.

Ceremonies were always moving for me because my mother was an immigrant, my father the orphan son of immigrants. Neither of them had any education and they worked at very menial tasks in our society. But because of the openness of America, because of equal justice under law in America, I sit here today a United States Senator. And after every one of these ceremonies I made it a point to speak to these new Americans, I asked them why they came, how they came, and their stories, each of them, were inspiring, I think you would be interested and moved by them given the views you have expressed on this country.

And when I asked them why they came they said several things, mostly two. The first is they said we came because here in America everybody has a chance, opportunity. And they also said over and over again, particularly people from totalitarian societies, we came here because here in America you can criticize the government without looking over your shoulder. Freedom to disagree with the government.

Now, you have addressed several pleas to this committee, very eloquently. None more eloquent than last Friday when in response to a question by Representative Cheney you asked that Congress not cut off aid to the Contras for the love of God and for the love of country. I now address a plea to you. Of all the qualities which the American people find compelling about you, none is more impressive than your obvious deep devotion to this country. Please remember that others share that devotion and recognize that it is possible for an American to disagree with you on aid to the Contras and still love God and still love this country just as much as you do.

Although he's regularly asked to do so, God does not take sides in American politics. And in

America, disagreement with the policies of the government is not evidence of lack of patriotism.

I want to repeat that: in America, disagreement with the policies of the Government is not evidence of lack of patriotism.

Indeed, it is the very fact that Americans can criticize their government openly and without fear of reprisal that is the essence of our freedom, and that will keep us free.

Now, I have one final plea. Debate this issue forcefully and vigorously as you have and as you surely will, but, please, do it in a way that respects the patriotism and the motives of those who disagree with you, as you would have them respect yours.

Thank you very much, Colonel.

Mr. Chairman, I have no further questions.

Chairman INOUE. The session will stand in recess for 10 minutes.