duties of member states are raised to a common external tariff. The European Community has now taken this step with regard to U.S. exports of tobacco, oranges and grapefruit, kraft paper, photographic film, nonagricultural tractors, excavating and outboard motors, engine additives, measuring instruments, pumps, plywood, and other items. The total value of the tariff concessions will be nearly $1 billion a year—a significant gain for American businessmen, farmers, and workers. At the same time, the European Community has preserved its position with regard to the export of cereals. Clearly, Ambassador Eberle and his able staff have done an excellent job in promoting U.S. commercial interests.

However, this agreement represents the first time the United States and the Community have been chosen by the people to have their differences arbitrated in this way. It is even more significant as an indicator of cooperation across the Atlantic. For nearly 18 months—indeed, right up to the 11th hour—these negotiations had been difficult, and sometimes even painful. They threatened to impede other negotiations between the United States and the Community. And they were often viewed as a source of division and discord, especially during a time of rapid change in political and economic relations.

The most important facts, therefore, are that the negotiations are over, and that an agreement has been reached at all. The discord and misunderstanding appear to have been put behind. And there is renewed hope for other negotiations, not only in the field of trade, but also in the whole panoply of Atlantic relations. Credit must go in particular to the European Community leaders who recognized that progress on this issue was important in order to preserve and promote the climate needed for adjusting and improving relations in other areas.

There is good reason to believe that negotiations can succeed, even in these difficult times of understanding the shifting currents of trading patterns, and of coping with the impact of radical change in the worldwide trade of food and fuel.

It may be, however, that we in the United States have “turned the corner” on restoring good relations across the Atlantic. The next round of multilateral trade negotiations—even the passage of a trade bill by Congress—will lie ahead. So does effective reform of the international monetary system, and significant progress on energy cooperation, as promised—but so far not delivered—by the Washington Energy Conference in February. And the U.S. administration has yet to abandon its dangerous observation that support of the European Community.

Yet there is now more reason for hope than there was a few months ago. By most accounts the Western allies have maintained a high level of cooperation at the talks on mutual and balanced force reductions, and the NATO countries have yet to reach truly difficult areas. The issue of European funding of the balance-of-payments costs of U.S. troops stationed on the continent has been successfully resolved. And in recent weeks, there has also been a useful shift in European attitudes toward cooperation with the United States—a shift that can be sustained if we are sensitive to European needs, as well.

Thus, Mr. President, I welcome the agreement on the so-called “24–6” problem that has nagged at the negotiators—and thoughtful observers—for so many months. And I urge the administration to pay careful attention to the statesmanlike position adopted by the European Community in according to our demands. If we can now, at long last, revive our interest in—and attention to—the overall Atlantic problem, we may make great strides very quickly. For there is no magic in having good relations between our country and Europe: it is largely a matter of devoting the time and the effort to ties of friendship, and not expecting these ties to substitute for the slower process of detaching those differences that inevitably arise.

And for too long, this administration has ignored this simple lesson. Hopefully, with success on “24–6,” it will begin again to see the opportunities—as well as the challenges—of improving relations in our relations with the nations of Western Europe.

The Crisis of the Contemporary Presidency

Mr. MONDALE, Mr. President, this past Saturday I had the pleasure of addressing a regional convocation of the Center for the Study of Democratic Institutions in Los Angeles. The subject of my address was “The Crisis of the Contemporary Presidency.”

I should make it clear that the text of this address be printed in Record.

There being no objection, the address was ordered to be printed in the Record as follows:

The Crisis of the Contemporary Presidency

(By Senator Walter F. Mondale)

Almost 500 years ago, Machiavelli described the effective ruler as a ruler of an effective and wise leader. Such a person, he wrote, would choose wise men to give him advice and would give these advisors a mandate to speak no lies.

He would behave so that each advisor sees that “the more freely he speaks, the more he is listened to.”

But above all, he said, a ruler would be a great asker, and a patient hearer of the truth about those things of which he has inquired; indeed, if anyone has scruples in telling him the truth he should be angry.

Even for a Machiavelli, seeking out and valuing the truth was essential to produce wise leadership.

For the past month, millions of Americans have been reading the most astounding set of political documents ever emanate from the White House. If the President sought the truth in dealing with Watergate or attempted to hide from its consequences, he would have been asking the hard questions about this President which have implications both for the immediate future, and for the Office of the Presidency for decades to come.

For we will have missed the lessons of the White House transcripts if we concentrate exclusively on the guilt or innocence of Richard Nixon. The essential message which these shocking documents reveal is the desperate need for effective checks and balances to make the office of the Presidency strong, yet open and legal.

The dangers we face are clear. The usurpation of power which the transcripts reveal violates the most passionately held principles of the framers of the Constitution. As the great 17th century Englishman Sir William Melville noted almost a hundred years ago: “If there are any three things opposed to the genius of the American Constitution, they are, first, an unlimited power of the legislature; second, an unlimited discretionary authority in an executive, and the union of an irresponsible judge and an unlimited executive in one person.”

We now realize the dangers of that union. We now know that our liberty can be lost if we do not protect the constitutional balance in this country. Democracy without change in some of the most important institutions in our government, we may not see Presidents who view themselves, as President Kennedy once did, simply as political agents—men who have been chosen by the people to manage the government for a limited time.

The importance of these institutional changes cannot be underestimated. They must deal with key problems causing the dangerous imbalance of power among the branches of our government: the increasing influence of the presidency, the failure in the last few years to control the execution of our foreign policy; the failure of the Congress to assert its responsibilities in controlling the power of the purse and in overseeing and voting on critical military needs for structural reforms in the legislative branch to restore Congress’ ability to compete effectively in the public arena with a powerful President.

First, in the area of foreign affairs, we have enacted a war powers statute which is designed to restrain any President from waging war which was not approved by the people, the people, through the Congress, have not sanctioned.

And we are working in the Congress to ensure that the Congress of the United States of America has the right to confirm treaties entered into by the President is not circumvented by the use of executive agreements.

Many of our allies are beginning to make progress in securing more firmly our constitutionally mandated power over the purse. Both the Senate and the House have passed legislation to control unlimited impoundment of appropriated funds by any President, which over 30 courts have declared to be illegal.

We must pay much closer attention to an often overlooked item in the massive Federal budget—the appropriation for the Executive Office of the President.

During the Nixon years, a strategy of closed decision-making developed. Its principal thrust was to push key decisions into bodies such as the Office of Management and Budget and the National Security Council, bodies wholly within the White House, whose officers were not subject to confirmation by the Senate—in order to bring all major policy decisions to the head of the White House staff. This was behind exaggerated concepts of executive privilege and national security.

Congress cooperated with this strategy by not reading the OMB and the Domestic Council, and by largely agreeing to requests for funds for these bodies. In fact, it was the accumulation of funds for a large White House staff which was the key to the success of this scheme.

Perhaps the most egregious example of this trend has been the Domestic Council, which has been created by the Senate and whose loyalties are only to the President.

Under the leadership of John Ehrlichman, it constituted a private government, removed from any dialogue with or accountability to either the President or the Senate. In the White House, whose executive staff which was the key to the success of this scheme.

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Under the leadership of John Ehrlichman, it constituted a private government, removed from any dialogue with or accountability to state or local officials, the Congress or the Cabinet offices.

To prevent this from continuing, we must reduce the Presidential staff budget, not to cripple a President’s ability to make decisions, but to force more decisions into the Cabinet.
In the was Arthur Schlesinger, Jr. has through government with the most recent Presidential affairs. And they have revealed the profound danger to our liberty which these trends present.

The style of foreign policy making has nascently been to avoid a style of secrecy. The sweep and drama of diplomatic initiatives, the need for only limited consultation, the tendency of Presidents in international efforts during the 1970s to frequent absence of powerful domestic interest groups enable a President to maintain secrecy and avoid real power-sharing. Thus, the President is responsible. But the danger of the Nixon Presidency, has been to show the style of secrecy, the use of national security, and the psychology of negotiating with the enemy from the White House to the media, or, at the very least, a Congressional scrutiny. We have seen attempts by the White House to intimidate the media with this pressure, while at the same time at- empting to ensure that this will not lead to reform. Finally, there is need for structural re- forms within the Congress. We need more staff, adequate computer technology and a greater capability to deal with the mass of information that is developed by Executive Branch agencies.

And it is crucial that we end the virtual Presidential monopoly on the use of television and radio. The Nixon Administration has used the FCC, the CRA, the IRS, and the Department of Justice's antitrust division to curb the illegal use by any President of the most sensitive agencies of the government—the FBI, the CIA, the IRS, and the Department of Justice. The threat of the use of these agencies, which have generally performed well. They are also instrumentalities of more important potential danger to our constitutional liberties and their power must be exercised responsibly.

And we should seriously consider institution of a televised question and report period, during which key legislative bodies, such as the Senate, would be authorized to have a secure and confidential hearing on the most important national security issues. This would be a major step towards opening up the conduct of foreign policy to public scrutiny.

In order to break through government secrecy, we must strengthen the Freedom of Information Act and attempt, through the courts, to require that the President's legislative process, to attack the overly broad use of national security and executive privilege as a means to keep vital decisions away from public scrutiny. We also desperately need legislation to make the information constantly developed by Executive Branch agencies. This means providing legislative oversight and investigatory responsibilities for Congress, and more respect for the Constitutional safeguards have lost much of their meaning. The treaty has largely been ignored by Presidents of both political parties, and many of the techniques of foreign policy making are bypassed in favor of tactics, not of politics, but of war. Indeed, the CIA came perilously close to Involvement in domestic subversion, but that was not involved in Watergate, Dole replied that not only was the convention, the campaign, the election, the firing of Archibald Cox nor the limited and incomplete disclosure of Watergate- related transcripts was accepted by the American people. They expected and demanded more—more accountability to the Congress, and more respect for the Constitution.

The central lesson which the isolated Presidency of Richard Nixon should teach us is that we must open up the conduct of both foreign and domestic policy to public scrutiny, and never again allow secrecy and subversion to dominate any President's dealings with the American people.

As the Nixon Presidency came to an end, the tactics of the 1972 Nixon campaign were the tactics, not of politics, but of war. If our democracy is to survive, we can never allow these patterns to recur. For the accountability on which our democracy rests can thrive only through an active, honest relationship and dialogue between the President, the Congress, and the people.

It needs the constant test of political reality—the clash of opinions in full view of the public, and the public's right to participate in the course of open and honest debate on vital issues.

Without reforms to increase accountability, there is little chance that American politics will be truly democratic. In his most recent Interview with columnist James J. Kilpatrick, President Nixon clearly indicated his conception without secrecy. "It is impossible . . . And it is particularly im- portant not to be dealing not with your friends, but with your adversaries."

Certainly, any President has a legitimate need for secrecy in his most sensitive diplomatic activities. But any President the right to conduct an effective foreign policy? But the danger of the Nixon Presidency, has been to show the style of secrecy, the use of national security, and the psychology of negotiating with the enemy from the White House to the media, or, at the very least, a Congressional scrutiny. We have seen attempts by the White House to intimidate the media with this pressure, while at the same time at- empting to ensure that this will not lead to reform. Finally, there is need for structural re- forms within the Congress. We need more staff, adequate computer technology and a greater capability to deal with the mass of information that is developed by Executive Branch agencies.

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The American people do not want to be negotiated with; they want to be represented. They do not want to be dealt with as adversaries, but as an electorate to which any President is responsible.

There is no excuse for dealing with the House Judiciary Committee as if it were a Communist superpower. There is no justification for dealing with the Special Prosecutor's office as if it were a foreign enemy.

In the Nixon Presidency, the style of Presidential policy-making in the area of foreign affairs has resulted in the President's ever-increasing lack of accountability to our other governmental institutions. As Arthur Schlesinger, Jr. has aptly put it, "the Nixon Presidency has experienced essentially the creation of foreign policy."

In fact, the constitutional framework did not envision the flight from accountability in the handling of foreign affairs which modern day Presidents have embraced. The Congress was given important power in sanctioning American involvement beyond our borders and in approving treaties entered into by our government. In recent years, however, both of these Constitutional safeguards have lost much of their meaning. The treaty has largely been ignored by Presidents of both political parties, and many of the techniques of foreign policy making are bypassed in favor of tactics, not of politics, but of war.

The rather bitter statement of former President Carter, that the American people have shown that they do not want to be dealt with as adversaries, but as an electorate to which any President is responsible.

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Indeed, such a Presidency has cut one more line in maintaining the sense of perspective which is vital for the effective functioning of the Presidential office.

This has been true of both Nixon and Reagan. Archibald Cox, when Gardner has noted, has created a curious and unprecedented one-way communication with the American people. He can reach us but we can’t reach him. We cannot help but think that when our people ask for more information, the President’s mind closes to us. We are always with him but there is no dialogue.

And yet the actions of this President should not be underestimated. As David Halberstam has effectively shown in *The Best and the Brightest*, Presidents Kennedy and Johnson often went outside the party’s structures to achieve their ends. Indeed they often tried to neutralize the party and make it ineffective, a weakened instrument incapable of challenging the Presidential will.

Understandably, there is a natural tendency of any President to dominate and even bypass the party and make it incapable of offering solutions or standing against his policies. Perhaps because of this, in part, there seemed no mechanism during the 1960s within the Democratic party short of an all-out change in the rules of the party to make it impossible for the President to bypass the party and make it incapable of fundamental changes in his policy—were simply not present.

So it is with Richard Nixon.

When President Nixon summarized fired Archibald Cox, when he failed to comply with the subpoena of the House Judiciary Committee, the President seemed to be outside the party’s structures. Perhaps because of this, in part, there seemed to be a natural tendency of any President to dominate and even bypass the party and make it incapable of offering solutions or standing against his policies.

When a party is in power, that party must be able to debate and discuss issues and inform its President when there is widespread dissatisfaction with the policies being pursued.

And when a party is out of power, it must be able to stand as a watchdog and provide coherent opposition to the party within a spirit of constructive dialogue.

Obviously, we do not want Presidents who are shackled by every whim and desire of their political party. But we urgently need Presidents who are responsive to party leadership and who are open to party views on the many issues on which they wish to be informed.

Without this party accountability, Presidents will increasingly become less accountable to the people at large, and less amenable to criticism from within their own party.

Yet there are powerful forces working against the assertion of real accountability to the American people. Through the devices of television communications, a President can, and does go over the heads of his party and the Congress to discuss those issues on which he wishes to be informed. There are clearly limits to what we can realistically expect to achieve through any structural reform. And while I believe that strengthening the Congress and the people in their right to know is vitally important, I don’t pretend to have all the answers to this extremely difficult problem.

But we can try. There are broad goals toward which we can work—many of which are now being discussed and debated by both the Democratic and Republican parties.

First, within the Congress, the role of the party must be strengthened, to provide a more coherent legislative voice on the many issues on which party consensus is possible.

Second, we need strong party staff capable of exposing the President’s political party staff which can serve through different administrations. This capability will aid in establishing a continuity of party administration which can somehow influence the President in the exercise of unaccountable power by a President.

In the Democratic party are currently grappling with many of these issues. Many of them are controversial, but their discussion can be most helpful in reviving the role of the party as another important institution in the American system, and in the exercise of unaccountable power by a President.

Indeed, all of the efforts to reform our most important governmental institutions, to increase accountability to the Congress and the people, and to strengthen our party structures are directed toward the single objective of keeping the Presidency strong, while increasing its accountability to the people, and assuring its operation within the Constitution.

We need a strong Presidency to lead this nation. Yet national leadership can be effective only when there is mutual respect between the President, the Congress, the Courts, and the people.

Reforms can encourage this respect, and help us arrive at a workable constitutional system. But the President of the United States will continue to be the most powerful elected leader in the world. The character of the American Presidency will continue to depend upon the actions on the American people and the kind of person they choose to elect to that office.

In 1972, Senator Edward W. Brooke and Senator Harris Wofford were not surprised by the Presidency of Richard Nixon, and we should not be either. In 1933, Franklin Roosevelt stated that: "I believe it is not only impossible but administratively inefficient to create an influential office. That is the least part of it. . . . It is preeminently a place of moral leadership. All our great Presidents were leaders of thought at times when certain historic ideas in the life of the nation had to be clarified."

We are in such a time now, and the President must be directed at providing national leadership.

I believe, along with Harry Truman, that "there is far more good than evil in men and that we should use the legislative functions of government to make the good prevail."

I am convinced that the Presidency must become the platform from which the central issues of the day—such as the problems of justice and inequality, of morality and honesty in government, of economic growth and the domination of large impersonal institutions, of powerlessness—is must be confronted.

And most importantly, the role of the President as the voice for the powerless in our society must be reasserted with a new sense of commitment.

We now know that in an age of large and impersonalized institutions, powerlessness is not only a divisive force in our society, but a moral, political, and economic problem.

Our Presidents must be willing to assume in their capacity as leading leadership on issues of crucial domestic importance, even though—or precisely because—they are open to public scrutiny and debate in their resolution.

And coupled with a commitment to seek responsible change must be an equally strong commitment to openness in the process by which the changes are brought about.

George Washington vowed to keep open "the avenues to useful information from the many," lest he risk becoming "more dependent on the wisest than the best.

It is precisely this concern for openness which must become the theme of the Presidency as we begin our third century of democracy.

In short, we need Presidents who can ask questions without being ashamed; who can develop solutions without being isolated; and who can provide leadership without being dictatorial.

The American people have seen the dangers of the politics of paranoia and vengeance. They demonstrated this in late 1972 when they had removed, in the election of John Dean in late 1972 that the President of the United States will continue to be the most powerful elected leader in the world. The character of the American Presidential will continue to depend upon the actions of the American people and the kind of person they choose to elect to that office.
and accountability as objects of fear, and which believes that its principal goal is the destruction of its political enemies.

The American people have clearly seen that the federal office to be occupied by individuals who view vengeance, rather than compassion; retribution, rather than restoration; as their paths to political glory.

And most importantly, the American people now realize that we do not need messiahs who will not answer questions to lead our nation, but leaders to bring to birth with the qualities of compassion and justice which the American people have always possessed.

Benjamin V. Cohen, one of the principal architects of the Legal Services Corporation, has said that “the most important quality and test of the Presidency is its ability to arouse and enlist the energies, the loyalties, and, if need be, the sacrifices of the people to carry out the ultimate role of the President to give inspiration and outlet to the tremendous forces for good at large in this great nation.”

We need a strong Presidency to provide enlightened, compassionate leadership. But without openness and accountability to the law, this strength can lead to the ultimate destruction of the constitutional system.

For it is openness which ultimately creates strength for the office of the President, and candor which breeds respect for the law itself.

The American people have seen the Constitutional, political and moral issues which the Presidency of Richard Nixon has raised, and they are demanding a restoration of Constitutional principles in our Presidency.

In the end, this may be our greatest hope. For no institutional change can ever succeed unless the American people want and expect a balanced and thriving democracy.

As the great jurist Learned Hand noted thirty years ago:

“Liberty lies in the hearts of men and women; when it dies, there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help. Without liberty, which needs and demands freedom, no constitution, no law, no court to save it.”

LEGAL SERVICES

Mr. THURMOND. Mr. President, I recently received a copy of a letter from Mr. Howard Phillips from Mr. Welch Morrisette, president of the Richland County Bar Association, Columbia, S. C.

In this letter, Mr. Morrisette recounts the difficulties encountered by the Richland County Bar Association as a sponsor of the Columbia Legal Service Agency.

Mr. President, the Richland County Bar Association is the largest local bar association in the State of South Carolina, and its members include some of the ablest attorneys in this country. Their opinion on the subject of Legal Services should be given very careful attention.

Accordingly, I ask unanimous consent that this letter be printed in the Record at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:


Mr. Howard Phillips, Public Monitor, Capitol Hill, Washington, D.C.

Dear Mr. Phillips: I have your letter dated May 26, 1974, regarding expenses of the Congressional Record of May 20, 1974. These expenses contain an analysis of portions of the proposed statute creating the Legal Services Corporation which has been passed by the House of Representatives and the plan reported out by a Conference Committee. The House Plan seems much more desirable.

The Richland County Bar Association is the largest local bar association in the State of South Carolina and has been the sponsor for the Legal Aid Agency here. For years the Bar Association has been unable to control the direction, the philosophy, the policies or the contract staff at the Legal Service Agency we sponsor. The lawyers who have been employed for the most part have been activists, who were more interested in promoting social change in providing legal representation to poor people. The director has absolutely defied us in employing changes in the mental attitude of the Agency. We, as members of the Bar Association, feel the need for representation for poor people. We feel, however, that the Legal Aid Agency was not designed as a trial law office and not as a missionary station.

Five of the six members of the Richland County Bar Association who have served on the Board of Directors of the Legal Service Agency have resigned because of the ineffectiveness of their efforts and their complete frustration and their disagreement with the philosophy of the new agency. This has caused the Executive Committee of our Bar Association to direct me to inform the Regional Office of the Office of Economic Opportunity in Atlanta that we do not intend to fill those vacancies unless a director responsible to us was appointed. The by-laws of the local agency provide that the director be appointed by the by-laws of the local agency provide that the director be appointed by the Board of Directors. The Executive Committee of the County Bar Association, The Government has informed us that the local director will resign if we do not appoint or designate the director and any bylaws which provide for such would be ineffective. We have also been told that even if the local director resigns at the request of the Government we will find another sponsoring group and continue the operation.

Our dilemma is this. We can withdraw our sponsorship and have the agency totally managed by the Federal Government rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law rather than provide protection within the law.

Our dilemma is this. We can withdraw our sponsorship, and have the agency totally managed by the Federal Government rather than provide protection within the law rather than provide protection within the law. We need a strong Presidency to provide enlightened, compassionate leadership. But without openness and accountability to the law, this strength can lead to the ultimate destruction of the constitutional system. No institutional change can ever succeed unless the American people want and expect a balanced and thriving democracy.

As the great jurist Learned Hand noted thirty years ago:

“Liberty lies in the hearts of men and women; when it dies, there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help. Without liberty, which needs and demands freedom, no constitution, no law, no court to save it.”

The American people have clearly seen this. No institutional change can ever succeed unless the American people want and expect a balanced and thriving democracy.

Without openness and accountability to the law, this strength can lead to the ultimate destruction of the constitutional system. No institutional change can ever succeed unless the American people want and expect a balanced and thriving democracy.

The THE SAM-D, 1 YEAR LATER

Mr. BAYH. Mr. President, 1 year ago I proposed an amendment to the fiscal year 1974 Department of Defense authorization bill to terminate continued research and development on the Army's SAM-D missile program. I did so because I was convinced that its excessive cost, its technical uncertainties, and its lack of utility made it unnecessary to continue funding this program in order to render it a grossly ineffective expenditure of our defense resources. The Senate did not agree with my arguments, and my amendment was defeated by a vote of 34 to 56.

I would like to review for the Senate what has happened to this program during the past year. I might note at the outset that the extraordinary cost increases which we had seen previously in this program continued unabated over the past year. The program cost grew by $4.48 billion when I offered my amendment last year, to a total cost estimated at $8.14 billion, almost 4 times the original estimates.

Despite these huge cost overruns, perhaps the most important new factor affecting the SAM-D since last year's vote lies in the experience we gained as a result of the October, 1973 war in the Middle East. As far as air defense is concerned, both Syria and Egypt demonstrated a highly effective air defense capability using the variety of weapons provided by their Soviet suppliers. They succeeded in taking a quite considerable toll of Israeli aircraft. But Israeli eventually achieved dominant air superiority because the Arab MIG's were simply no match for the more advanced and better piloted Israeli planes and because the Israelis used fairly effective electronic countermeasures provided them with the upper hand.

The initial success of the Arabs' ground-based air defense systems can be traced directly to the great diversity and quantity of the weapons they possessed and their high degree of mobility. Included in their arsenal was a 20-millimeter, radar-controlled, quad-mounted cannon, and the SA-2, the