

FOR RELEASE UPON DELIVERY

Mr. President:

The Foreign Military Sales Act has been the focus of Senate attention for nearly 7 weeks. During this time, the Act has undergone considerable change, and at this point many observers find it difficult to understand exactly what the Act does or says. Several points, however, are clear.

The Act is not now, contrary to early appearances, a repudiation of the President, nor does it attempt to relegate Executive Branch functions to the Congress. The Act is a sound reaffirmation of the President's powers to perform his Constitutional duties as Chief Executive of our nation and Commander-in-Chief of the Armed Services. It is also a reasonable expression of Congressional sentiment and a valid exercise of legislative authority.

A number of significant modifications have been made in the bill reported from the Foreign Relations Committee. A major focus of these alterations was the committee-adopted Cooper-Church Amendment.

The amendment started as a statement which could have been interpreted as an attempt to curtail the prerogatives and authority of the President in the conduct of our foreign affairs and fulfillment of our military responsibilities. Many of the possible ramifications of the original version received detailed and thorough attention by the members of this body. In the course of that consideration a majority came to feel that certain clarifications and expansions of the amendment were necessary.

PREAMBLE CHANGE

The first change, one which was agreed to unanimously, was made in the preamble of the amendment. The language was altered from an expression of unilateral, legislative initiative to a declaration of shared objectives with the Executive.

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Dole

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MANSFIELD----DOLE

Following several rejections of proposed additions to the Cooper-Church Amendment, the Mansfield-Dole Amendment was adopted by unanimous vote. It emphasized that the Cooper-Church Amendment should not be deemed to impugn the Constitutional, Commander-in-Chief powers of the President.

BYRD

The next, and perhaps most significant, change was the second so-called "Protection of the Forces" amendment offered by the Senator from West Virginia (Mr. Byrd). Its importance arises not only from its adoption and specific language but from its history, for a similar, but narrower amendment had been offered earlier. The first Byrd Amendment dealt only with the President's powers to protect the troops under his command in South Vietnam; the second extended to "United States Armed Forces wherever deployed." The first Byrd Amendment was narrowly defeated; the second was adopted by a vote of 79-5. The success of the second Byrd Amendment evidences a fundamental reappraisal by nearly half the Senate of the impact which the Cooper-Church Amendment might have had in its original, unelaborated form.

JAVITS

The last significant clarification of the Cooper-Church Amendment was offered by the Senator from New York (Mr. Javits). It pointed out that nothing in the Cooper-Church amendment should be deemed to impugn the Constitutional powers of the Congress. This was an important point to make, for, while many in this body were concerned that no action of Congress should cloud the President's powers and authority, there has been equal recognition of legitimate Congressional responsibilities in the areas of foreign and military affairs. Certainly, no Senator wishes to weaken the Congress, and the Javits amendment clearly avoids any implication that the Cooper-Church amendment would do so.

TONKIN GULF

Another point repeatedly made in the debate on the Foreign Military Sales Act and the Cooper-Church amendment, when our overall role in Southeast Asia was considered, was that the 1964 Gulf of Tonkin Resolution was an unfortunate, unrelieved-upon and unnecessary statutory relic. It was seen to have been hastily and ill-considerately adopted; it was found to provide no basis for and to be inherently inconsistent with the present U.S. policy of disengagement and withdrawal; and it could not be seen to serve any worthwhile purpose now or in the future. With these considerations in mind the Junior Senator from Kansas offered an amendment to repeal the Gulf of Tonkin Resolution. It was adopted with a substantial majority.

SIGNIFICANCE OF DEBATE

Debate on the Foreign Military Sales Act has extended through the greater part of two months, perhaps an unprecedented amount of consideration for a measure such as this. Some have labeled this debate a filibuster. I disagree. A filibuster in the history of the practice has been characterized by adamant, unyielding opposition to a matter before this body; rambling, irrelevant orations by proponents of one viewpoint; and little if any constructive debate of the substantive issues involved. The past seven weeks' record hardly illustrates inflexibility of any viewpoint or absence of compromise and resolution of differences. The Senators from Kentucky and Idaho have been most gracious in their willingness to discuss their amendment. The record of votes on the several amendments discloses numerous shifts in position by Senators on both sides of the principle lines of opinion. The debates and exchanges on the Senate floor provide countless examples of agreement, shared objectives and common understanding of the central issues.

Rather than being remembered as a filibuster, Mr. President, I submit that the past seven weeks will be recognized as one of the greatest, most productive debates in the history of this body. Not only has a major legislative measure been hammered out and refined, but some of the most significant legislative history in recent decades has been created. It has been a rare occasion when so many members of this body have given such prolonged and eloquent attention to a matter with the Constitutional significance of the balance of the war powers between the legislative and Executive branches of government. This debate will stand as a valuable guide for the Congress, the President and Constitutional scholars for years to come.

THE PRESIDENT'S ACTIONS

Headlines in this morning's papers carried a message which came as no surprise to this Senator nor to millions of Americans: "Last Troops Pulled Out of Cambodia." It is now clear that President Nixon has met his commitments and has kept his promise to end United States operations in Cambodia by the end of June. I had no doubt that the President would make good his word and that he could do so without the direction or oversight of the Congress.

SUMMARY

It is already July 1 in Southeast Asia, and U.S. Cambodian operations have been completed. The Cooper-Church amendment cannot now be construed as an attempt to second-guess the President's conduct of those operations; it now has appropriate prospective application and provides a valuable statement of strategic, long-term policy for the United States in Southeast Asia. By clarifying the President's authority to protect the forces he commands, the Byrd Amendment forecloses any possibility that shadow would be cast on the President's powers in this critical area of his responsibilities.

By underscoring the Constitutional mandate of the Congress, the Javits amendment assures no diminution of the proper role of this branch of government. By repealing the Gulf of Tonkin Resolution, the Dole amendment removes whatever chance there might be for further abuse of this ill-considered piece of our former policy in Indochina.

This seven-weeks' debate has been extremely valuable to Senate and public understanding of our goals and purposes in Southeast Asia.

I believe all parties to the debate in the Senate have profited by it, just as the President has profited by demonstrating his credibility and reliability in pursuing the Cambodian operations successfully and according to the schedule which he announced.