

S. 3390

Section 4: New Section 515 of the
Foreign Assistance Act of 1961, as amended

"Limitations on Availability of Funds for Military Operations"
(page 7, line 17)

New Section 515

New Section 515 would prohibit the use of funds "under any provision of law" for the purpose of financing any military operations by foreign forces in Laos, North Vietnam, or Thailand unless Congress has specifically authorized or specifically authorizes the use of funds for such purpose and designates the area where military operations financed by such funds may be undertaken.

Executive Branch Position

The Executive Branch strongly opposes the inclusion of section 515 in a foreign assistance act. This section is inconsistent with section 501(a)(1) of S. 3108 and H. R. 12604, the military procurement authorization bills, which are pending in the Armed Services Committees, and the understandings covering that section. Section 515, as worded, would affect on-going arrangements for U. S. assistance to Laos which also involve regional cooperation and self-help and would have grave impact on our goals in Laos. These goals are and have been to aid in the orderly withdrawal of U. S. forces from South Vietnam and to preserve the precarious but important balance which exists in Laos.

Further, the provision of subsection (b) of section 515 would impose impractical and undesirable requirements on executive actions without due regard for the President's responsibility in this field.

Aside from raising constitutional questions that may impair the President's authority to conduct negotiations with the affected countries, section 515 might severely restrict the ability of the recipients to react quickly in emergency situations. For example, it could prevent the victim of aggression from engaging in hot pursuit of an enemy after his territory is invaded.

Yet according to section 502 of the Foreign Assistance Act of 1961, as amended, a recipient nation may use military training and equipment provided by us for its legitimate self-defense. In short, section 515 would require that the affected recipients of foreign security assistance allow the United States Congress to determine in advance what steps they can take in defending themselves from aggression.

There is no question that the evolving cooperative relationships among the free nations of Southeast Asia are consistent with the Charter of the United Nations. There is also no question that these cooperative arrangements are crucial to the success of the Vietnamization program and to the whole thrust of the Nixon Doctrine. For the Nixon Doctrine in Southeast Asia means that as friendly nations assume more of the direct burden of the conflict the United States will increase its material assistance so as to help them help each other in defending themselves against a common enemy.

U. S. support for these cooperative efforts is essential if they are to be successful.

Finally, subsection (b) of section 515 might create serious security problems by requiring the Executive Branch to disclose to the Congress in advance detailed plans for proposed military operations to be undertaken by friendly foreign governments.

Recommendations

A. Strike new section 515 en toto;

marked B. Failing that, strike the word "Laos" which appears on line 22 of page 7 of S. 3390, or

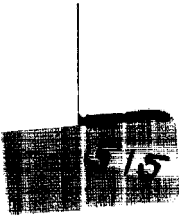
C. If section 4(3) of S. 3390 (transferring from MSAF to MAP military assistance for Laos and South Vietnam) is struck en toto, then substitute "under the provisions of this Act" for the phrase "under any provision of law" on line 19 of page 7 of S. 3390.

Previous Congressional Action

A. A provision identical to new section 515 was included in the Senate version of the Foreign Assistance Act of 1971 (S. 2819). During floor discussion, Senator Stennis obtained the removal of South Vietnam, Cambodia and Burma from the provision and argued for the removal of Laos. Senator Stennis made it clear that the only reason he was not fighting harder for the removal of Laos in the Senate was to avoid a secret session, implying that Laos should and would be removed in conference.

B. The conference committee deleted the entire section from the Foreign Assistance Act of 1971.

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17 “*SEC. 515. LIMITATIONS ON AVAILABILITY OF FUNDS*
18 *FOR MILITARY OPERATIONS.—(a) No funds authorized or*
19 *appropriated under any provision of law shall be made*
20 *available by any means by any officer, employee, or agency*
21 *of the United States Government for the purpose of financing*
22 *any military operations by foreign forces in Laos, North*
23 *Vietnam, or Thailand outside the borders of the country of the*
24 *government or person receiving such funds unless Congress*
25 *has specifically authorized or specifically authorizes the mak-*
1 *ing of funds available for such purpose and designates the*
2 *area where military operations financed by such funds may*
3 *be undertaken outside such borders.*

4 “(b) Upon requesting Congress to make any such au-
5 thorization, the President shall provide to Congress a copy of
6 any agreement proposed to be entered into with any such gov-
7 ernment or person and the complete details of the proposed
8 military operation. Upon such authorization by Congress, the
9 President shall provide a copy of any such agreement and
10 thereafter of all plans and details of such operation.”

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The result was announced—yeas 23, nays 52, as follows:

[No. 242 Leg.]

YEAS—23

- | | | |
|--------------|----------|---------------|
| Allen | Cook | Jordan, N.C. |
| Allott | Dole | Jordan, Idaho |
| Baker | Dominick | McClellan |
| Bennett | Eastland | Smith |
| Bible | Ervin | Stennis |
| Brock | Fannin | Stevens |
| Buckley | Fong | Talmadge |
| Byrd, Va. | Gurney | Young |
| Byrd, W. Va. | Hansen | |
| Cannon | Hollings | |

NAYS—52

- | | | |
|-----------|-----------|-----------|
| Alken | Hatfield | Fercy |
| Anderson | Humphreys | Proxmire |
| Bayh | Javits | Randolph |
| Beall | Kennedy | Ribicoff |
| Belmont | Long | Roth |
| Bentsen | Magnuson | Saxbe |
| Boggs | Mansfield | Schweiker |
| Brooke | Mathias | Scott |
| Burdick | McIntyre | Sparkman |
| Case | Metcalf | Spong |
| Chiles | Mondale | Stafford |
| Church | Montoya | Stevenson |
| Cooper | Moss | Symington |
| Cranston | Nelson | Taft |
| Fulbright | Packwood | Tavel |
| Griffin | Pastore | Williams |
| Harris | Pearson | |
| Hart | Pell | |

NOT VOTING—20

- | | | |
|-----------|----------|----------|
| Cotton | Hartke | Miller |
| Curtis | Hruska | Mundt |
| Easton | Hughes | Muskie |
| Ellender | Inouye | Thurmond |
| Gambrell | Jackson | Tower |
| Goldwater | McCoe | Tunney |
| Gravel | McGovern | |

So Mr. DOMINICK's amendment was rejected.

Mr. FULBRIGHT. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 32, line 11, strike out "\$565,000,000" and insert in lieu thereof "\$452,000,000".

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. CASE. Mr. President, will the Senator yield?

Mr. CHURCH. Mr. President, in order to accommodate three Senators, the Senator from New Jersey (Mr. CASE), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Mississippi (Mr. STENNIS), I have agreed to yield briefly, with the consent of the Senate, provided I do not lose my right to the floor.

[Disturbance in the galleries.]

The PRESIDING OFFICER. The Galleries will be in order. The Sergeant at Arms will see that order in the galleries is restored.

The Chair recognizes the Senator from New Jersey.

Mr. FULBRIGHT. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Jersey may proceed.

Mr. CASE. Mr. President, I call up an

amendment affecting page 34 of the bill, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered. And, without objection, even though the amendment of the Senator from Idaho is the pending business, the Senate will proceed to consider the amendment of the Senator from New Jersey.

Mr. CASE's amendment is as follows:

On page 34, lines 13 and 14, strike out "South Vietnam, North Vietnam, Thailand, Cambodia, or Burma" and insert in lieu thereof "North Vietnam, or Thailand".

Mr. CASE. I thank the Senator from Idaho for his consideration, and, pursuant to my assurance, I shall delay him only slightly, I am sure there will be no difficulty about this amendment.

Mr. President, on page 34 of the bill, the committee added a provision to the effect that no funds authorized or appropriated under any provision of law should be made available by means of any officer, employee, or agency of the United States to finance military operations by foreign forces in six countries—Laos, South Vietnam, North Vietnam, Thailand, Cambodia, or Burma—unless Congress specifically authorizes the use of such funds for that purpose, and designates the area where they will be used.

I have received from the chairman of the Armed Services Committee an expression of concern about the breadth of this amendment, and after discussions with him, we have arrived at the understanding that—

Mr. STENNIS. Mr. President, will the Chair maintain order? I think this is an important matter, and the Senator ought to be heard, in view of a possible agreement on the floor.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend his remarks until order has been restored.

The Senator may proceed.

Mr. CASE. Mr. President, the chairman of the Armed Services Committee, the distinguished Senator from Mississippi (Mr. STENNIS) and I have discussed this matter. His concern about the number of countries affected by the amendment as reported by our committee was one that I recognized with respect. Pursuant to an understanding that we have arrived at, I now offer this amendment to eliminate from the effect of the bill three of the six countries, leaving in Laos, North Vietnam, and Thailand. That is the whole amendment.

The Senator from Mississippi has been gracious enough to say that while he wants to consider this matter further at a later stage in the legislation; for the purposes of the consideration of the bill in the Senate at this time, such an amendment is satisfactory.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. CASE. I am happy to yield.

Mr. STENNIS. Mr. President, as I have understood, now, the Senator proposes that in section 513 on page 34 of the bill, the words "South Vietnam, Cambodia, and Burma" be stricken out of lines 13 and 14, as they appear.

Mr. CASE. That is right.

Mr. STENNIS. That would leave, of course, then, the words "Laos, North Vietnam, and Thailand," as they appear now in the bill.

Mr. President, the Senator from New Jersey has correctly stated the understanding that we have had about this legislation, and we have agreed, for the purpose of this legislative step, that this modification of section 513 will put the section where it may stay in the bill in that form, and we can move forward with the bill without any further amendment being filed or brought up by the Senator from Mississippi.

I do make the point, as the Senator has implied, that this is done without prejudice to a full consideration of the matter in conference, based on the facts as they may exist at that time.

Is that the Senator's understanding?

Mr. CASE. The Senator has stated correctly what his position is, and the basis on which his agreement not to oppose this amendment or to offer another amendment to this section is based.

Mr. STENNIS. I thank the Senator, and I wish to make this further explanation: I think leaving the word "Laos" in here—

Mr. CASE. That is another section.

Mr. STENNIS. I beg the Senator's pardon?

Mr. CASE. I thought the Senator was talking about another section.

Mr. STENNIS. No, I am talking about the same section. I think that leaving the word "Laos" in the bill as now written is perhaps a contradiction of a provision on the same subject in the military procurement bill we passed 2½ weeks ago. However, I think that to get all the real facts on this matter before the Senate now would require a closed session. There is hardly time for that now, and I do not think there is any mood for it, either. So, as an original proposition, and without prejudice, we agreed to let this matter go as has already been outlined, and then in conference there will be a chance to really consider and discuss any facts that might be relevant; and I would rest on the decision that is made by the conferees.

Under those circumstances, I hope that the modification will be acceptable to the Senate. I have talked with some Senators about supporting my position in this matter, and I now withdraw the request because I believe this meets the situation.

Mr. CASE. Mr. President, I yield to the chairman, if he wishes to make comment.

Mr. FULBRIGHT. I am in full agreement with that.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, will the Senator yield me 1 minute?

Mr. FULBRIGHT. I yield.

Mr. STENNIS. I want the record to show that I consider this an important matter and that I am free to follow it

up, as is the Senator from New Jersey, of course, or anyone else—the chairman of the committee or anyone else—and get the facts together and get it before the conference.

Mr. CASE. The situation is that the matter will be in conference, because the House bill does not contain any provision on this subject.

Mr. FULBRIGHT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho, by unanimous consent, yielded to three Senators in order, the first of those Senators being the Senator from New Jersey.

Mr. FULBRIGHT. Mr. President, under the agreement I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 34, line 4, strike out the words "Laos, or South Vietnam."

The PRESIDING OFFICER. Without objection, the amendment will be in order.

Who yields time?

Mr. FULBRIGHT. I yield myself 2 minutes.

Mr. President, this is exactly the same circumstance as the previous one, by agreement with the Senator from Mississippi. We have discussed this matter. This involves the return to the Committee on Foreign Relations of jurisdiction over military assistance to Laos, South Vietnam and Thailand.

We have agreed to strike out South Vietnam and Laos but to retain Thailand. The Senator from Mississippi does not disagree, I may say, with the return ultimately of the jurisdiction over Laos and South Vietnam, but he thinks it is premature to put it in this bill at this time. Therefore, by mutual agreement, I have agreed to this modification.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, the Senator from Arkansas has correctly stated the matter. Thailand is left in the bill; and military assistance hereafter, if this becomes law, will be handled by the Committee on Foreign Relations. I am willing that, in the future, jurisdiction with respect to Southeast Asia be returned to the Committee on Foreign Relations. I think that while we are there and our men are there and the activities are going on, we ought to keep it where it is, because they have to be considered together. I appreciate the Senator's position.

With that, I am satisfied with the section as modified.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. I yield back the remainder of my time.

The PRESIDING OFFICER. Who

acting for the minority leader? Does the minority leader yield back the remainder of his time on this amendment?

Mr. GRIFFIN. I yield back the remainder of the time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. FULBRIGHT. Mr. President, I have a technical amendment that does not affect the bill at all, except to clear up a typographical error.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: On page 20, line 18, after "1969," insert the following: "\$350,000,000 for the fiscal year 1970, and".

The PRESIDING OFFICER. Without objection, the amendment is in order. Who yields time?

Mr. FULBRIGHT. I yield myself 1 minute.

Mr. President, this has no effect upon the bill at all. It is a mistake, a typographical error, on the part of the staff in preparing the bill. They did not make many errors, but this is a hard bill to keep straight. This amendment has no effect on anything substantive in the bill.

I yield back the remainder of my time. Mr. GRIFFIN. I yield back the time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

AMENDMENT NO. 546

Mr. STENNIS. Mr. President, I send to the desk an amendment on which we have agreed. I do not think it will take more than a minute or minute and a half.

Mr. CHURCH. Mr. President, I have no objection, on the basis of the same qualification.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 57, line 7, after the word "responsibilities" insert the following words: "within the jurisdiction of these committees", and on line 11, after the word "information" insert the following words: "within the jurisdiction of these committees".

The PRESIDING OFFICER. Without objection, the amendment is in order. Who yields time?

Mr. STENNIS. I yield myself 1 minute.

Mr. President, this is another amendment on which we worked out an agreement with the Senator from Arkansas. It relates to reports being made by the Department of State to the Committee on Foreign Relations, and we are in favor of that. The language was so broad, however, that we thought it would include some items over which the Committee on Armed Services has primary jurisdiction. These words merely correct and clarify that point, and I hope the amendment will be adopted.

Mr. FULBRIGHT. Mr. President, I wish the Record to show that this is a technical amendment. There was no

intention of the committee to usurp any jurisdiction of the Armed Services Committee. This amendment clarifies the intention of the committee.

I yield back the remainder of my time. Mr. STENNIS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Mississippi.

The amendment was agreed to.

The PRESIDING OFFICER. In accordance with the previous order, the Chair recognizes the Senator from Utah (Mr. Moss).

ESTABLISHMENT OF ARCHES NATIONAL PARK, UTAH

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 30.

The PRESIDING OFFICER (Mr. ALLEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 30) to establish the Arches National Park in the State of Utah, which was to strike out all after the enacting clause, and insert:

That (a) subject to valid existing rights, the lands, waters, and interests therein within the boundary generally depicted on the map entitled "Boundary Map, Proposed Arches National Park, Utah," numbered RPSSC-138-20, 001E and dated September 1969, are hereby established as the Arches National Park, hereinafter referred to as the "park". Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) The Arches National Monument is hereby abolished, and any funds available for purposes of the monument shall be available for purposes of the park. Federal lands, waters, and interests therein excluded from the monument by this Act shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") in accordance with the laws applicable to the public lands of the United States.

SEC. 2. The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange or otherwise, the lands and interests in lands described in the first section of this Act, except that lands or interests therein owned by the State of Utah, or any political subdivision thereof, may be acquired only with the approval of such State or political subdivision.

SEC. 3. Where any Federal lands included within the park are legally occupied or utilized on the date of approval of this Act for grazing purposes, pursuant to a lease, permit, or license for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, the Secretary of the Interior shall permit the persons holding such grazing privileges or their heirs to continue in the exercise thereof during the term of the lease, permit, or license, and one period of renewal thereafter.

SEC. 4. Nothing in this Act shall be construed as affecting in any way any rights of owners and operators of cattle and sheep herds, existing on the date immediately prior to the enactment of this Act, to trail their herds on traditional courses used by them prior to such date of enactment, and to water the lands involving such trails and watering

AMENDMENT

Intended to be proposed by Mr. _____ to S. 3390, a bill to
amend the Foreign Assistance Act of 1961, and for other
purposes, viz:

- 1 On page 7, line 15, strike out all of SEC. 4 (5).

AMENDMENT


Intended to be proposed by Mr. _____ to S. 3390, a bill to amend the Foreign Assistance Act of 1961, and for other purposes, viz:

1. On page 7, line 22, strike "Laos".

AMENDMENT

Intended to be proposed by Mr. _____ to S. 3390, a bill to amend the Foreign Assistance Act of 1961, and for other purposes, viz:

1. On page 7, lines 18 and 19, strike out "or appropriated under any provision of law" and substitute "under the provisions of this Act."

TRANSMITTAL SLIP		DATE 12 June 1972
TO:		
ROOM NO.	BUILDING	
REMARKS: Suggested talking paper concerning Foreign Assistance Act of 1972 restrictions on third country forces. FE is preparing additional material with more specifics re Thai irregulars, if needed.		
		
FROM:		
ROOM NO.	BUILDING	EXTENSION
FORM NO. 241 1 FEB 55	REPLACES FORM 36-8 WHICH MAY BE USED.	(47)

STATINTL

also given to Braswell
on 13 June '72 with draft
memo of effects of 515